THE FREEMAN

IDEAS ON LIBERTY

Are Women Exploited By the Free Market?

Is Politics Insoluble?

Economic Illiteracy Makes Bad Law

How Japan Realized Her "Impossible Dream"

SEPTEMBER 1994

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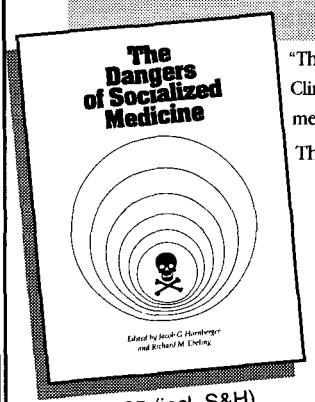

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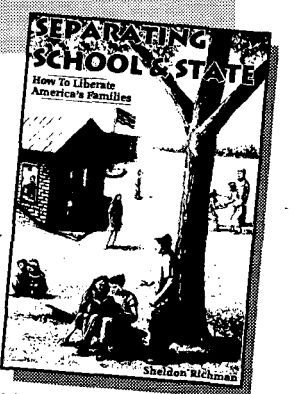

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CONTENTS
SEPTEMBER
1994
VOL. 44
NO. 9

468 **Is Politics Insoluble?** *by Henry Hazlitt*
Is a science of government possible?

474 **Property Rights, American Constitutionalism, and International Human Rights "Law"** *by Daniel F. Walker*
Individual rights under siege.

478 **Rights Versus Entitlements** *by Steven Yates*
Granting entitlements leads to an expanding and costly government.

480 **Ideas and Consequences: America's Economics Knowledge Deficit** *by Lawrence W. Reed*

482 **Economic Illiteracy Makes Bad Law** *by Mark S. Pulliam*
When courts overthrow private contracts they undermine the system of private property and exchange on which business rests.

486 **"Thou Shalt Not Steal"** *by Jan Michal Malek*
Protection of private property is essential for economic progress.

491 **Treachery?** *by Scott Alexander*
The importance of trust.

493 **How Japan Realized Her "Impossible Dream"** *by Toshio Murata*
It was hard work, saving, entrepreneurship, and trade that enabled the Japanese to pull themselves up from ground zero after World War II.

501 **Science—Coming Out of the Closet** *by Eric W. Hagen and James J. Worman*
Beware of the predictions of environmental experts with political bias.

505 **A Crisis in the Making: Europe's Welfare Burden** *by Nicholas Elliott*
Financial crises threaten entrenched programs.

508 **Are Women Exploited by the Free Market?** *by John Chodes*
Before the enactment of "pro-labor" laws, women competed successfully on the market for work and wages.

514 **Singing the Ticket Scalping Blues** *by David N. Laband*
When ticket holders are prohibited from offering their tickets to others, the wishes of the most eager would-be buyers are frustrated.

516 **Transitting Away from the Free Market** *by Robert A. Condry*
New subsidies for mass transit.

518 **What Is a Capitalist?** *by Roger M. Clites*
Should a capitalist be maligned for self-denial (saving) and producing for others?

520 **FDA and the Market in Natural Medicine** *by Stephanie Hiller*
Restricting the ability of individuals to care for their own health needs.

525 **Correction, Please! The Free Market Works Fine, Except . . .** *by Mark Skousen*

528 **Book Reviews**
Bettina Bien Greaves reviews *The Ghost of the Little House: A Life of Rose Wilder Lane* by William Holtz; *The God of the Machine* by Isabel Paterson, reviewed by John Attarian; *Russian Currency and Finance* by Steve H. Hanke, Lars Jonung, and Kurt Schuler, reviewed by William H. Peterson; *Angry Classrooms, Vacant Minds* by Martin Morse Wooster, reviewed by John Hood; *Code Blue: Healthcare in Crisis* by Edward R. Annis, M.D., reviewed by Frank J. Primich, M.D.; *Man and Nature*, The Foundation for Economic Education, reviewed by Raymond J. Keating.

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PERSPECTIVE

A Word From the Guest Editor

For many years I have been on the Foundation's staff. When people asked me what I did, I would tell them, "I read, I write, and I look things up." That about covers it. Occasionally I edited an article for *The Freeman*. But this is the first time I have actually edited an entire issue.

The quality of the articles included here is impressive. A thought-provoking article on government by the late Henry Hazlitt leads off. Daniel Walker, Mark S. Pulliam, Scott Alexander, and Jan Malek deal with the very fundamentals of a market society—private property, contract, and trust. And Japanese professor Murata destroys the myth that MITI's "industrial policy" is invincible. These and the other articles in this issue are described briefly in the Table of Contents.

Being Guest Editor has been a challenge, also fun. Through it all, I have gained much respect for those before me, especially Paul Poirot and Brian Summers, who, month after month, and year after year, put together a journal of well-written, interesting, educational, and thought-provoking articles.

—BETTINA BIEN GREAVES

Justice

The utilitarian economist does not say: Fiat justitia, pereat mundus. [Let justice be done even though the world be destroyed.] He says: Fiat justitia, *ne* pereat mundus. [Let justice be done so the world will not be destroyed.] He does not ask a man to renounce his well-being for the benefit of society. He advises him to recognize what his rightly understood interests are. In his eyes God's magnificence does not manifest itself in busy interference with sundry affairs of princes and politicians, but in endowing his creatures with reason and the urge toward the pursuit of happiness.

—LUDWIG VON MISES
Human Action

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Quality

I still remember my teachers in Switzerland some fifty years ago hammering into our heads that only will we succeed in the bigger world, if we produce *quality*, to make up for the small size of the homeland. "Our country has no natural resources," they used to preach, "but we have people, and if they excel, they will be noticed. If every move you make is more courteous, the workplace cleaner, the food you prepare better, you will succeed. Not everyone is cut out to be great and to do *great* things, but as long as you do even *little* things in a great way, you will not only survive but triumph."

—GINA KINDSCHI BLOOM

Variety

It is easy to point to evil in the world. But if men are free and at peace with their neighbors, the good that comes from social cooperation overpowers the bad. Individuals with different aptitudes, interests, talents, wants, and goals benefit by specializing and exchanging the products of their labor. This is the market. Songwriter Jan Conn reflects on the good that comes from "variety" in her musical, *Run to Catch a Pine Cone*:

The world needs lots of variety.
Think about it and you'll agree.
Because the world needs variety. . .
That's why the world needs me.
You can't paint a picture with only one color.
With only one color, life couldn't be duller.
But when you add contrast the picture will live.
So let me be me, I'll have much more to give.
Variety, Variety, the world depends on it, yes siree.
Mountain and flatland, desert and sea.
Because I'm different this old world needs me.
A tune with just one note is no tune at all.
The magic begins when the notes rise and fall.
So let me sing my song, whatever it be.
The world will be richer because I am me.
Variety, Variety, look around you and you will see,
The old world thrives on variety.
That's why the world needs me.

—JAN CONN
Run to Catch a Pine Cone

The Human Mind

Thomas J. Watson, Jr., chairman of International Business Machines Corp.: "There is really no comparison between the human mind and the most fantastic computer ever imagined. There are many things that a machine has never done, cannot do today, and will not do tomorrow; in fact, will never do. The human mind holds billions of pieces of information, all cataloged we know not how, all brought to mind or retrieved we know not how, all synthesized into knowledge, into intelligence, into creativity, and all available to guide every one of us as we move through this complicated world—available to give us morality, character, sympathy, and countless other human traits."

—*The National Observer*,
November 18, 1968 (p. 14)

Toleration

It is not the diversity of opinions, which cannot be avoided; but the refusal of toleration to those that are of different opinions, which might have been granted, that has produced all the bustles and wars.

—JOHN LOCKE
"A Letter Concerning Toleration"

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Is Politics Insoluble?

by Henry Hazlitt

H.L. Mencken was fond of saying that most of the problems men agonize over are inherently insoluble. A haphazard search among his books has failed to turn up a supporting quotation, and perhaps my memory misleads me. He may merely have said "some," not "most" problems. In the latter case, at any rate, I agree with him. I would include at least two whole categories of problems among the insoluble ones. First, all problems commonly classed as metaphysical, ontological or cosmological—such as "How can we tell the really real from the apparently real?" or "What was the First Cause?," or "What is mankind here for?," or "What is the purpose of the universe?" And so on. The second category contains all the really basic political problems.

There are differences, of course, in what is meant by "insolubility" as applied to each of these sets of problems. The metaphysical problems are forever insoluble because man's limited five senses, narrow experience, and finite mind cannot possibly encompass eternity, "ultimate" reality, or infinity. The basic political problems on the other hand, are insoluble because . . . well, for one thing, because we are not even sure what we mean by a "solution."

Suppose we address ourselves to this problem first. What is a "solution"? It is easy to cite an illustration. A man's car fails to start on a cold morning. He finds that his battery is dead, or that his spark plugs are fouled, or that a wire is disconnected, or that the carburetor is flooded, or that he has run out of gas. Once this basic "cause" is discovered, he probably knows how to fix it or have it fixed. Or, again, the man feels some distress; and his doctor identifies it as diabetes and prescribes insulin. Once a doctor has correctly diagnosed a disease with a known palliative or cure, he has "solved" his problem.

In the physical sciences, then, the problems commonly arise because something is working unsatisfactorily, and if we have identified A as the cause and M as the solution, we know we have found the cause and the cure if we can in that and similar cases make things work satisfactorily once again.

But when we turn to the social sciences, and particularly to politics, this kind of certainty or confidence is no longer to be found. Let's take a typical broad problem: What should the state do about the poor and the needy? Historically the answers have run from nothing to everything. The nothing answer has run typically like this: "It is not the function of the state to try to help the needy or provide relief. The proper function of the state is simply to prevent force, theft, and fraud, and maintain internal and external peace."

Henry Hazlitt (1894-1993), a founding Trustee of this Foundation, was a noted economic journalist and author of the best-selling Economics in One Lesson. *He also made major contributions to the critique of Keynesian economics and the foundations of morality. This article first appeared in the Fall 1976 edition of* Modern Age, *pp. 395–401.*

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Such an answer immediately confronts obstacles of several sorts. The first concerns its humanity or even its practicality. Suppose, for example, that a child has been hit by an automobile and is found bleeding and unconscious in the street. Are we to hope that whoever finds him proves to be a good Samaritan? And also well enough off to have the child driven to a hospital and to guarantee to pay the bill if the parents are not found or are unable to do so?

"All right," the answer may come, "let the state at least provide for emergency help of this sort." But how far shall we carry this answer? How far shall we extend the definition of "emergency" help? Should the state pay every hospital bill of everybody who claims he cannot pay? Should it put everybody on relief who claims he cannot find a job? How high should the relief be? At just what level will it seriously undermine the incentives to find or hold jobs? At just what level will it undermine the incentives to work and save of the taxpayers who are asked to support the idle? At just what level will it bankrupt the state?

Government and the Needy

There are people who are untroubled by these questions. They want to "guarantee everybody a decent job," or a minimum income, or even equality of income, regardless of all individual differences of effort, ability, or contribution, regardless of the effect on incentives, regardless of any other social consequence. So, in fact, not only historically but today, the answers to the question, "What shall government do about the needy?" still run from nothing to practically everything.

Most people who have given serious thought to the problem have proposed or accepted some compromise. A typical compromise proposal is that we should assure the needy or the unemployed an "adequate" relief payment for a "reasonable" time, but not enough to "undermine their incentives" to find jobs or improve themselves, and not enough to undermine the incentives of the working and productive taxpayers who are being asked to shoulder the bill.

There are inherent difficulties in this compromise. It is something of a self-contradiction. If the relief recipient himself considers his dole "adequate," this is almost equivalent to saying that he has no incentive to take a job or otherwise expend effort to increase it. At all events, the compromise lacks any precision. On the one hand, even a high standard dole may fail to meet the urgent needs of some families. On the other hand, almost any dole of any amount may tend to undermine some people's incentive to a certain extent. As a result of such difficulties, it is hard to get any two people to agree on what should be the amount of a proposal or actual dole, or on who should be eligible for it, or how long or under what conditions it should continue to be paid. So there are hundreds of different answers to these questions.

I do not use this last figure rhetorically but literally. It can be illustrated even within our own country. If we take the federally financed program of Aid to Families with Dependent Children, we find that the average monthly payment per recipient in August, 1975, for example, was different for each of the fifty states, ranging from $14.41 in Mississippi to $105.39 in Alaska. In the "general assistance" program we find a similar range of variation for the same month—from $11.94 per recipient in Mississippi to $144.95 in the District of Columbia. And when we turn to state unemployment insurance systems, even though these also are federally aided, we find not only a similar wide range in weekly benefits, but in the proportion that the benefits bear to the recipient's previous wages, and in the number of weeks in each year for which such benefits are payable.

When we come to comparing not only different states in our own country but different countries, we encounter an enormously greater range of differences in both the amounts and formulas used for calculating relief or so-called unemployment insurance payments. Great Britain, for example, pays its unemployed three-quarters of

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their previous salaries (which makes its recent prolonged unemployment rate not surprising). In many countries, on the other hand, nothing whatever is paid for unemployment insurance or even relief—not primarily because national sentiment does not favor it, but because the funds do not exist.

If we turn from relief to, say, education, we find a similar wide range of opinion and practice among national governments concerning how much education to make compulsory or how much the state should pay for. It ranges from governments that provide no education at all, through those that provide free public schools, or free high schools, or subsidized college and university education. The prescribed age ranges for compulsory education are similarly wide.

There is one generalization we can make that applies both to relief and education, and, in fact, to any other intervention of the state, once the principle has been granted that it should be allowed to undertake that function at all. The intervention will tend to be indefinitely expanded. The individual amount of relief will tend to grow, the period of payment to be lengthened, the eligibility requirements to be relaxed, the number of recipients to be enlarged, and additional forms of relief to be piled on to those already offered. The like will tend to apply to the length and coverage of state education. Public expenditures will always tend to grow. Because of the politicians' fear of increasing taxation correspondingly, deficits will be increasingly tolerated and rationalized, and inflation will appear and tend to accelerate.

The Limits of the State

In the last hundred years the historic tendency nearly everywhere has been a constant increase in government intervention in the economy, a constant increase in government paternalism and in government power. Each new power that any government has acquired has almost inevitably been used by it to obtain still further powers. It is hardly to be wondered at that a small but perceptibly growing number of political thinkers are beginning in desperation to go beyond even their previous belief that the role of the state should be limited to trying merely to prevent force and fraud, and have begun to advocate a complete abolition of the state.

It is hard not to feel some sympathy with them. It is pleasant, indeed, to draw up attractive pictures of what an ideal anarchistic society would be like. But all these dreams would be shattered by the almost certain outcome. If there were no established government, the country would be taken over by the criminals and gangsters. Eventually one gang would subdue or wipe out its rivals, and that gang would become the new de facto government. It would systematically exact tribute from all the rest of us, only this would again in time be called taxes. In brief, it is impossible to maintain a peaceful anarchy unless some authority is set up to enforce it.

This points, indeed, to the probable origin of the state. We need look no further back than the middle of the last century, when the "vigilance committees" were formed in our own wild West. One of these, for example, was organized in San Francisco in 1851, and promptly arrested, tried, and hanged a goodly number of desperadoes. If this and similar committees had not been formed in California and elsewhere, the desperadoes themselves would no doubt in time have become the de facto government.

But we need not speculate afresh at this time concerning the probable origin of government. That has already been done quite satisfactorily, and by no one better than by David Hume in his essay "Of the Origin of Government" in the mid-eighteenth century. His conjectures are at once so simple and plausible that they warrant direct quotation:

> It is probable that the first ascendant of one man over multitudes began during a state of war, where the superiority of courage and of genius discovers itself most visibly, where unanimity and concert are most requisite, and where the pernicious effects of disorder are most

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> sensibly felt. The long continuance of that state, an incident common among savage tribes, inured the people to submission; and if the chieftain possessed as much equity as prudence and valor, he became, even during peace, the arbiter of all differences, and could gradually, by a mixture of force and consent, establish his authority. The benefit sensibly felt from his influence made it cherished by the people, at least by the peaceable and well-disposed among them; and if his son enjoyed the same good qualities, government advanced the sooner to maturity and perfection; but was still in a feeble state till the farther progress of improvement procured the magistrate a revenue, and enabled him to bestow rewards on the several instruments of his administration, and to inflict punishments on the refractory and disobedient. Before that period, each exertion of his influence must have been particular, and founded on the peculiar circumstances of the case. After it, submission was no longer a matter of choice in the bulk of the community, but was rigorously exacted by the authority of the supreme magistrate.

There may have been somewhere, as a few eighteenth-century philosophers dreamed, a group of peaceful men who got together one evening after work and drew up a Social Contract to form the state. But nobody has been able to find an actual record of it. Practically all the governments whose origins are historically established were the result of conquest—of one tribe by another, one city by another, one people by another. Of course there have been constitutional conventions, but they merely changed the working rules of governments already in being.

But however the state may have originated historically, we confront a fundamental dilemma: No small group of men, and certainly no single man, can be completely trusted with the power to rule, yet somebody must be trusted with that power. And if we cannot peacefully agree on who is to be granted that power, and how much, somebody is going to seize it by force, and impose whatever coercion he finds expedient. So some limited power must be voluntarily granted to somebody to rule. But this one practical conclusion merely presents us with a score of further problems. What limits should we set on this power? How can we hold the selected rulers within these limits? Who is to do the selecting? By what process? For how long a term?

Concerning most of these problems we have been able to arrive, at best, at only makeshift and temporary agreement. In addition, in politics we confront, so to speak, a double layer of problems. Suppose one of us is able to devise an ideal form of government. Suppose he has found exactly where to draw the limits around the powers that ought to be granted to a government. How does he convince a majority of his fellow citizens that his answers are right? And what dependable devices does he propose to hold government powers within the limits he has prescribed?

In the West there is some semblance of political agreement because most of us accepted some time ago a magic password—democracy. If it were not the best of all conceivable forms of government, then, as the comfortable joke went, it was at any rate the "least worst." Yet we never quite arrived at any agreement even about the meaning of the word. Does it mean merely government by majority consent, or must there be majority "participation"? And which majority? Of the whole population? Of adults? Of male adults: Of "eligible" voters? And what should be the requirements for voting eligibility—of age, property, literacy, language? Hardly any two governments set exactly the same standards.

And does democracy mean presidential government or a parliamentary form? Here, again, in practice, we find endless variety. I implied, a while back, that democracy has become almost a religion; yet perhaps this statement should be put in the past tense. Even a superficial observer can begin to detect a declining faith in it. Almost everywhere we look—in Latin America, Africa, Asia, Eastern Europe—we find a similar

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pattern or cycle repeating itself: full democracy—the welfare state—inflationism—a trend toward socialism or Communism—and then a military dictatorship either to preserve or reverse the trend. Even in recent months we have seen the great subcontinent of India changed almost overnight, and without a shot being fired, from an apparent democracy to one-woman rule. . . .

Americans have come a long way since 1917, when they went to war, under Woodrow Wilson's slogan, "to make the world safe for democracy." Yet if many in the West have been losing their faith, and beginning to wonder how to make the world safe *from* democracy, they have found no definite alternative. There are today more than 130 separate nations. Some of them have parliamentary governments, some presidential; some of them are extreme democracies, some absolute dictatorships. But no government is precisely like the other. In fact, few of them are precisely like they were a little while ago or will be in a little while from now.

It is not merely that nations are constantly changing the particular persons or parties in power; they seem to be chronically dissatisfied with the very nature of their governments. Thumb through an annual like *The Statesman's Year-Book* at haphazard. You will find Costa Rica: "The constitution, promulgated on 7 Dec. 1871, has been modified very frequently, last in 1949." Or Nicaragua: It had a new constitution in 1963. "On 31 August 1971 the Congress voted in favor of dissolution of the Constitution. A 100-member Constituent Assembly started its discussions on a new Constitution in May 1972." Or Guatemala: "Following the revolution of June 1954 the Constitution of 1945 was replaced in August 1954 by a 'Political Statute.' On 1 March 1956 a new Constitution came into force. This Constitution was in 1963 replaced by a Fundamental Charter of Government. A new constitution was promulgated on 15 September 1965 with effect from 6 May 1966."

We seem to have made very little advance since the sixteenth century, when the Reverend Richard Hooker was writing: "He that goeth about to persuade a multitude that they are not so well governed as they ought to be, shall never want [for] attentive and favorable hearers."

So where are we left? Generations of mankind, and great philosophers, have wrestled with these basic political problems, and said some penetrating things about them —Plato, Aristotle, Machiavelli, Hobbes, Locke, Montesquieu, Hume, Rousseau, Burke, Bentham, the Mills, Spencer, Dicey, Acton . . . . But have they come up with anything that the majority of our contemporaries are willing to accept as definitive? And can their successors ever hope to do so? Is it possible to lay down in politics any propositions to which we can confidently add: Q.E.D.? Can we prove anything? In brief, is such a thing as political *science* possible?

Raising this question reminds me that at least one of the great philosophers mentioned above, Hume, published an essay in 1752 with the very title: "That Politics May be Reduced to a Science." That a philosopher remembered chiefly for his skepticism would venture to raise such a hope seems especially encouraging. Yet a modern reader will find the argument of Hume's essay vague and disappointing, consisting of a few generalizations, drawn partly from a priori grounds and partly from history, that strike one as plausible but hardly as proved.

And yet—there may be examples in one or two other social disciplines to give us reasons for hope. By the reasoning and research of scholars, and more particularly by thousands of judicial decisions, jurisprudence, or legal philosophy, has been raised to the level of a near-science. We find there an increasing area of accepted and established principle, and neither the enormous diversity in theory or practice that we find in the wider area of politics.

Still more promising is what has been achieved in economics. Since the eighteenth century a series of great thinkers— including Hume, Adam Smith, Ricardo, Bentham, Menger, Böhm-Bawerk, and Ludwig von Mises—have succeeded in creating a genuine social science. As described by Mises:

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Henry Hazlitt and Ludwig von Mises in the 1960s.

"Economics is the youngest of all sciences . . . . It opened to human science a domain previously inaccessible and never thought of."[1] It "deals with a regularity in the concatenation and sequence of phenomena that is valid in the whole field of human action."[2] Economics, in fact, is merely a branch, though the hitherto best elaborated branch, of "praxeology"—the science of human action. "In all its branches this science is a priori, not empirical. Like logic and mathematics, it is not derived from experience; it is prior to experience. It is, as it were, the logic of action and deed."[3] "It is a science that aims at the ascertainment of universally valid laws of human conduct."[4]

True, this is not the description of economics that we commonly get. It is—or at least once was—almost peculiar to Mises. But it correctly describes, I think, the nature of modern economics, which was not put on a truly scientific basis until the appearance of the so-called Austrian school of thinkers. It is very important to keep in mind, of course, what kind of science economics is. It has its own methodology. It is a mistake to try to turn it into an imitation of the physical sciences. It is an absurdity to assume, for example, that we can use it to predict the general economic future, and say what the course of profits or employment or GNP is going to be in the next six months or the next year—though hundreds of professional forecasters pretend that they can do just that. There are too many thousands of imponderable factors to be taken into account. All such predictions must forever remain mere guess work.

But predictions of a certain kind—always with the proviso "other things remaining equal"—can confidently be made. We know, for instance, that if the government attempts to fix the price of any commodity or service below what the unhampered market would produce, then—"other things remaining equal"— it will inevitably bring about a shortage of that commodity or service. We know that if a government issues more money faster than more goods are produced, it will bring about inflation and raise prices. We know that if a government makes its own irredeemable paper money legal tender, while gold or silver coin remain outstanding, people will pay off their debts in the irredeemable paper money and hold on to their coins: "Bad money drives good money out of circulation." And we can make hundreds of other predictions of the same kind. We know that any government intervention in the market must in the long run produce results unforeseen by its advocates, and usually less satisfactory even in their judgment than the situation they were trying to improve. And we know this not because that was the result of a previous similar intervention, but inevitably from the inherent nature of the action.

Any hopes for the future, however, based on the analogy of what we have achieved in economics, cannot excuse us from recognizing the present, still wretched state of the theory of politics. Can we some day get beyond such basic dilemmas as the one we formulated earlier—that no small group of men, and no single man, can be completely trusted with the power to rule, yet that someone must be trusted with at least some power to rule? Can we eventually build up a series of interconnected propositions, a solid edifice of theory, that will be entitled one day to be recognized as a science? Perhaps. But right now that day seems far, far distant. □

1. *Human Action*, p. 1.
2. *Theory and History*, p. 203.
3. *Epistemological Problems of Economics*, pp. 12–13.
4. *Ibid.*, p. 68.

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THE FREEMAN
IDEAS ON LIBERTY

Property Rights, American Constitutionalism, and International Human Rights "Law"

by Daniel F. Walker

As readers of this journal realize, property rights are not the rights of buildings and land, but the rights of humans to own, use, and dispose of property—tangible and intangible, real and personal. Over the last six decades, American courts have greatly diminished the judicial recognition of constitutional protection of property rights, though the Supreme Court in recent years has begun occasionally to "rediscover" those rights.

To no surprise, the ethereal world of international human rights law reflects America's diminished appreciation and defense of property rights. One need only examine three of the primary documents of international human rights, and review recent American constitutional history, to recognize the low legal regard for property rights at the domestic and international levels.

Consider Article 21, paragraph 1 of the *American Convention on Human Rights*, born of the Organization of American States:

1. Everyone has the right to the use and enjoyment of his property. The law may subordinate such use and enjoyment to the interest of society.

At least paragraph 2 offers some minor comfort:

2. No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest and in the cases and according to the forms established by law.

"The law may subordinate such use and enjoyment to the interest of society." A rhetorical barrier such as the "interest of society," "public utility," or "social interest" is no barrier at all to government interference with property ownership; all a government entity need do is declare that a government "acquisition" of private property is done in the "interest of society," and the victimized property owner is legally powerless.

Private Property Rights in America

Followers of the demise of constitutional protection of property rights in America

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A view from Hawaii's Diamond Head. Approximately half of Hawaiian land is owned by the federal and state governments.

understand this; at one time, private property was not to be taken by government unless for a "public," as opposed to "private," use. "Public use" historically implied such items as public roads, military installations, or buildings and land to be used by government to carry out its limited, enumerated duties. The U.S. Constitution is clear; as stated in the "takings clause" of the Fifth Amendment, " . . . nor shall private property be taken for public use without just compensation."

Now labeled by scholar Richard Epstein as the "invisible" public use clause, the U.S. Supreme Court nearly erased the clause from the Constitution in the 1954 case of *Berman* v. *Parker*, an urban renewal case. In 1984, an allegedly "conservative" Supreme Court finished its mission of constitutional deletion in *Hawaii Housing Authority* v. *Midkiff*.[1]

At issue was a law which empowered land tenants to enlist the aid of the Hawaii Housing Authority to take by eminent domain the leased land owned by the Bishop Estate charitable trust, the ultimate purpose being that the tenants would then purchase land from the Authority. The Ninth Circuit Court of Appeals declared the law unconstitutional, stating, "We must decide whether the Federal Constitution permits a state to take the private property of A and transfer its ownership to B for his private use and benefit. It is our view that it was the intention of the framers of the Constitution and the fifth amendment that this form of majoritarian tyranny should not occur."[2]

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A unanimous Supreme Court disagreed and upheld the law.

Associate Justice Sandra Day O'Connor dismissed Contract Clause and due process attacks in a footnote. Focusing discussion on the Bishop Estate holding title to 9 percent of the land in Hawaii, she wrote, "The Hawaii Legislature enacted its Land Reform Act not to benefit a particular class of identifiable individuals but to attack certain perceived evils of concentrated property ownership in Hawaii—a legitimate public purpose."[3] By inference, one could conclude that private concentrated ownership is bad, but government concentrated ownership is good; the federal and state governments owned 49 percent of Hawaii land. Justice O'Connor's opinion was silent regarding the percentage of government-owned land.

The government did not condemn the property in order to construct a government building, or to build a street, or for reason of military defense. The government interfered with private property rights solely to intervene in the private housing market, for the benefit of private citizens, contrary to the ownership rights of the landlord and the contractual relationships between the landlord and tenants. Justice O'Connor destroyed the public use requirement and substituted a "public purpose" requirement, stating that "where the exercise of the eminent domain power is rationally related to a conceivable public purpose, the Court has never held a compensated taking to be proscribed by the Public Use Clause."

As a matter of constitutional law, the "public use" clause is a dead letter. It might as well be the "interest of society" clause in the *American Convention on Human Rights*.

(At least certain state constitutions are explicit, if jurisprudentially repugnant, in their language. For example, the Florida Constitution states that private property may be taken for a public *purpose* rather than *use*, thus the government's legal power to take private property is acknowledged as legally legitimate for many more reasons than if only for public "use.")

The United Nations versus Private Property

For an even more depressing look at the absence of property rights recognition at the international level, consider Article 17 of *Universal Declaration of Human Rights*, courtesy of the United Nations:

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Wonderful. The government cannot take your property arbitrarily—that is if the government draws your name, deed, or title out of a hat. Otherwise, presumably, if the government has some desire for your property, and has some non-arbitrary procedure or protocol for taking the property, then the government gets your property.

Even more shocking, in the collective opinion of the United Nations the government should not be required to compensate you once it has your property. At least the "just compensation" constitutional requirement retains some life in American law— if you have a good enough legal team to assure that the government does justly compensate you.

(The much discussed *Lucas* case from the 1992 term of the Supreme Court revolved around the just compensation issue, and the sole ray of jurisprudential light from that case is that if a government regulation removes all viable economic value from a property, then the government must compensate the property owner. While the *Lucas* decision was a victory for property rights proponents within our constitutional system, the victory was but a successful skirmish.)

The *Universal Declaration* certainly is a product of twentieth-century minds, and more's the pity. While certain rights, properly understood, are deemed worthy of protection, so is a laundry list of entitlements to other persons' property via social security, public insurance schemes, ad infinitum—the usual "social" or welfare

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"rights." As pointed out by Gottfried Dietze, any document produced to provide some sort of legal bridge among communist, capitalist, and social-democrat nations cannot contain strong provisions on behalf of private property; furthermore, the weak regard for private property "was due to the fact that Western democracies had become sympathetic to a social appreciation of property, whether they openly professed such a sympathy in international negotiations or not. No matter how gradually and imperceptibly it may have happened, a social conception of property has become so generally accepted by the so-called free societies that it constitutes a veritable *ius gentium*."[4] American legislatures and courts began to severely diminish property rights in the 1930s and 1940s. It is no surprise that if America would not stand fast for the human right of property ownership, neither would the rest of the world.

The European Experience

But what of the European experience with regionalized international human rights? In the *First Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms*, a product of the Council of Europe's member nations, property is addressed as follows:

Article 1

> Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

"Public interest." "In accordance with the general interest." "Secure the payment of taxes or other contributions or penalties." Again, we see a document which provides a slight acknowledgment of property ownership, and provides no shield against government encroachment upon the sphere of individual sovereignty made more robust by private property. Europe we need not look to.

Fortunately, neither the *Universal Declaration* nor the *American Convention* have any legal effect upon domestic American law. The Senate has not ratified either treaty, despite considerable legal-academic and "progressive" support for incorporating the provisions of these "human rights" documents into the framework of fundamental American law.

Still, the rhetorical surrender by successive American administrations regarding property rights as human rights reflects three generations of Americans living off their inherited philosophical capital—with little understanding of what happens when the capital of property rights is exhausted by social engineers in the "interest of society."

Proponents of "international human rights" and strong constitutionalism would do well to read the words of Canadian attorney and columnist Karen Selick, who recently addressed the topic of "property rights as human rights" quite elegantly:

> In fact, property rights are the inevitable extensions of those most basic of human rights, the rights to life and liberty. If a person chooses to spend some of his precious time on earth converting his energy into property (i.e., working for a living), then depriving him of that property later is equivalent to retroactively depriving him of that portion of his life which he spent working. It's like expropriating an entire chunk of his life. It's like enslaving him.[5] □

1. *Hawaii Housing Authority v. Midkiff*, 467 U.S. 229 (1984).
2. *Midkiff v. Tom*, 702 F.2d 788, 798 (9th Cir. 1983).
3. 467 U.S. at 241.
4. Gottfried Dietze, *In Defense of Property* (1975), p. 171.
5. Karen Selick, "Property Rights Are Human Rights, Too," *Canadian Lawyer* (June/July, 1993), p. 46.

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THE FREEMAN
IDEAS ON LIBERTY

Rights Versus Entitlements

by Steven Yates

Many people today speak of rights. We hear of rights not just to life, liberty, and the pursuit of happiness, but to a host of other things as well, including rights to employment, education, a certain level of income, a certain quality of housing, race and gender representation in the workplace, freedom from economic insecurity, and health care. Often these claims are made on behalf of some group; thus we hear of women's rights, the rights of minorities *qua* minorities, the rights of gays and lesbians, the elderly, children, the handicapped, and sometimes even the rights of animals. Usually a careful appraisal of what the advocates for these various groups are saying indicates their belief that their rights can be fulfilled only by acts of government. Hence they petition the government for new laws or other favors.

If we consider the original rights expressed in the Declaration of Independence and enumerated in the U.S. Constitution, it should be clear that there are massive differences between those rights and these new ones. The original rights were rights to live by one's personal efforts without the interference of others, and in particular, without interference by government. That is what the founders of the United States were declaring independence from, after all. The Declaration of Independence speaks of the right to *pursue* happiness; it does not offer a guarantee that one will *achieve* happiness. This makes all the difference in the world; for in a free society there can be no guarantee that effort will meet with success.

Nevertheless, today we see plenty of demand for such guarantees, and more and more promises being made by government in response to these demands. Take the minimum wage. What this "right" does is force an employer to pay a higher wage than employees' services might be worth under free market conditions. Or consider the "rights" to access now mandated by the Americans With Disabilities Act. This legislation requires businesses and other organizations to make extra-economic accommodations but does not clearly spell out what they have to do to comply. Such ambiguity is another characteristic of many recently discovered "rights."

Given the vast differences between what is stated in this country's founding documents and the demands we now see, accuracy and honesty call for a different term than *rights*. The term *entitlements* crept into our political and socioeconomic lexicon to refer to federal programs such as Social Security and Medicare. It is notable that the decision to partake of the fruits of these programs was not left up to the individual. By law, he had to participate, and this meant relinquishing an important aspect of freedom. Moreover, entitlements are always

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financed by compelling others to pay. Thus, they lead to more and more interference with individual freedom as government grows in size to administer its programs, seizing the fruits of individuals' actions both to support itself and to fulfill its entitlement guarantees.

In other words, there is a hard and fast difference between *rights* and *entitlements*, a difference which the past seventy years of government policy has blurred to the point of indistinguishability. A free society must recognize the distinction. Otherwise, it has no way of knowing which claims of rights to acknowledge and which to reject as spurious. Legitimate rights are easy to recognize. They can be acted on by individuals without the assistance of government and without forcibly interfering with other individuals. Entitlements, on the other hand, cannot be fulfilled *except* through specific government actions which require forcible interference with others. Protecting rights is thus compatible with limited government. Granting entitlements requires an ever-expanding and increasingly meddlesome state. The more entitlements the state grants, the more it must extend itself to make good on its promises, and the greater its level of interference with people's actions. Moreover, by interfering with successful actions, government becomes a drain on the individual's energies. The individual must expend more and more effort to get the same personal benefits. This translates into a disincentive to produce, and when less is produced, there is less to seize and distribute. Soon, the state can no longer keep its promises.

Today, government sees itself as in the business of providing guarantees in the form of entitlements; new, spurious "rights" such as those named at the outset are manufactured by the hundreds of pages of new legislation our government churns out every day. A government which knows its place, however, will shun entitlements. Attempts to provide guarantees to citizens, no matter how well intentioned or how well orchestrated, cannot be made without introducing more and more interferences with genuine rights as the government grows exponentially in order to administer the programs.

The government that sees itself as in the business of fulfilling entitlements soon finds itself under pressure to grant more and more. Then, faced with burgeoning bureaucracy, declining opportunities, declining prosperity, and a general malaise, it soon finds that it cannot grant anything worthwhile at all. Today's entitlement-granting machine is leading the country into the economic equivalent of a bottomless pit. Only time will tell if we can reverse the process by recovering the distinction between rights and entitlements and redefining the purpose of government as protector of the former, not guarantor of the latter. □

Help Wanted: Interns and Volunteers

The Foundation for Economic Education invites applications for a few positions as interns (male or female) who will live at FEE headquarters, studying the freedom philosophy, learning to publish a celebrated journal and great books, and preparing for advanced degrees. Small stipends will cover living expenses.

The Foundation also invites dedicated men and women of all ages and vocations to lend a helping hand in the service of a noble cause. It needs accountants and librarians, computer operators and repairmen, salesmen and mailmen, and many others.

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America's Economics Knowledge Deficit

Economics is a subject that dominates public life and important policy discussions these days, but those Americans who rely on what they've learned of it in the public schools are entering the intellectual battle unarmed.

According to an informal survey in my state of Michigan, 72 percent of the state's high schools offer economics. But of those, 51 percent make it a required course while 49 percent offer it as an "elective." Only a tiny fraction of students choose to take the subject when the choice is up to them. Barely 49 percent of Michigan students had actually completed one economics course before graduation in 1992.

The survey involved no value judgments regarding the kind of economics taught. Some courses deal with little more than "consumer" issues: how to balance a checkbook, how to find the best deals in the market, or how to borrow money at the lowest interest rate. Those are all useful things to know, but the mental tools and essential principles needed to analyze and evaluate the paramount issues of the day are too often missing.

Moreover, even a cursory examination of textbooks used in high school economics courses reveals a dismal level of understanding or outright bias by the text authors themselves. Students are sometimes reading, for instance, that Americans are undertaxed, that government spending creates new wealth, and that politicians are better long-term planners than private entrepreneurs. It is not uncommon for texts to portray free market competition and private property in a suspicious light while presenting government intervention with little or no critical scrutiny. It therefore may actually be a blessing rather than a curse that so few students are exposed to what passes these days in the schools as "economics."

Stripped of bias, the study of economics is immensely important. Indeed, without it we miss an understanding of much of what makes us the unique, thinking creatures we are. Economics is the study of human action in a world of limited resources and unlimited wants—a lively topic that cannot be reduced to lifeless graphs and mind-numbing equations that occupy the pretentious planner's time.

What Economics Teaches

Economics teaches us that everything of value has a cost. It informs us that higher standards of living can only come about through greater production. It tells us that nations become wealthy not by printing money or spending it, but through capital accumulation and the creation of goods and services. It tells us that supply and demand are harmonized by the signals we call prices and that political attempts to

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manipulate them must produce harmful consequences.

Economics explains that good intentions are worse than worthless when they flout inexorable laws of human action. It reminds us to think of the long-term effects of what we do, not just the short-term or the flash-in-the-pan effects. It tells us a great deal about the critical role of incentives in shaping human behavior.

In short, economics is a blueprint for a free and sound economy, which is indispensable to satisfying human material needs and wants. When the subject is well understood, people learn that leaving other people alone is a far more likely path to well-being than shoving them around with political dictates.

When people have little or no economic understanding, they embrace the "quick fix" and support impractical "pie-in-the-sky" solutions to problems. They may think that whatever the government gives must really be "free," and that all it has to do to foster prosperity is to command it.

Economically illiterate people are easy prey for currency cranks who argue that manufacturing more money will make us wealthier. They may even think that trade is a bad thing, that if we shut the borders to the flow of goods our living standards will rise. They will be not only unable to identify economic snake oil, but also untrained to detect its harmful consequences.

Arguably, America's great economic problems have their roots in widespread ignorance of economic principles. When the noted economist John Maynard Keynes was asked in the late 1930s if we should be concerned about rising debt and printing press money, he reportedly responded with this flippant remark: "In the long run, we're all dead." Today, as the late Henry Hazlitt countered, is the tomorrow that yesterday's bad economists like Keynes told us we could safely—but wrongly—ignore.

From the Clinton health care plan to financing schools and highways, Americans are being asked every day to form judgments and cast votes for programs and proposals that are largely economic in nature. It would behoove us to start talking about how we provide the missing tools we need to make those and other such decisions, so that we don't dig ourselves deeper in the muck of poor thinking and bad public policy.

Mandates Are Not the Answer

So, you say, the answer is to *mandate* the teaching of economics! If the schools aren't teaching the subject, well, then let's *make* them do it! Oh, there's that tempting but utterly counterproductive "quick fix" again—a symptom, in fact, of the very illness I am describing.

Passing laws to require the teaching of economics, as some states have already done, is precisely not the answer. In public education that only politicizes the subject and guarantees that too many people who don't understand it or don't want to teach it are instructing bored youngsters who couldn't care less. The vast majority of public school teachers are decent citizens of good will and great talent, but as government employees they labor in an environment naturally hostile to the critiques of government action that sound economics inevitably produces.

The idea of government-mandated economics teaching strikes me as likely to be no more effective than government-mandated teaching of anything else. Aren't we in the midst of a national *education* crisis as it is, with test scores and other measures of student aptitude plummeting to disgraceful levels? Is there any reason to believe that government can teach us economics any better than it teaches us mathematics?

The remedy for America's economics knowledge deficit is really the same remedy for our general knowledge deficit: a combination of demonopolizing the education system and diligent self-instruction.

If economics is as important as I've suggested, then a market-driven, choice-focused, performance-based, and fully accountable education system would surely do a better job of teaching it than a government monopoly that gets subsidized whether it teaches for the real world or not. Make education a product of the marketplace

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instead of politics and much more than just economics will be taught, and taught well.

Formal schooling, though, even in a thoroughly privatized environment, can only be part of the economics teaching equation. What we learn on our own, especially if we hope to inspire and persuade others, may be just as important. Looking back on my own economics training, I note that most of it was under the auspices of private groups like the Foundation for Economic Education and by way of publications such as *The Freeman*.

In any event, the relative absence of economics from America's classrooms is a problem that requires our attention. Many private efforts to solve it deserve our support. But no one should be fooled into thinking that putting government in charge will resolve it. □

Editor's Note: Thanks to sharp-eyed reader John Augustine of Hastings, Minnesota, who raised a question about Dr. Reed's July 1994 column. The last sentence of the first paragraph of page 344 should have read:

"A public sector that imposes more regulations than ever on the private sector and consumes at least five times the share of national income it consumed in 1900 is stark evidence of those ideas."

Economic Illiteracy Makes Bad Law

by Mark S. Pulliam

The great jurist Oliver Wendell Holmes once said, speaking about judicial decisions, that hard cases make bad law.[1] This may often be true, but that is not the only explanation for bad judicial decisions. There are other reasons why judges sometimes get things wrong—they may intend to reach a desired result, and bend the law to get there; or the lawyers for the parties may do a poor job arguing the case; or, more typically, judges simply make mistakes. In a case with potentially far-reaching implications decided by the California Court of Appeal for the Fourth Appellate District in San Diego, the court made a serious mistake; the reason was economic illiteracy. The case, *John Ellis* v. *McKinnon Broadcasting Co.*,[2] was a dispute between a TV station and a former employee of the station, an advertising salesman, over commissions that the salesman claimed were owed him. The salesman voluntarily resigned from the station and sued for a 20 percent commission on ads he had sold prior to his resignation but that were not paid for until after he left. The salesman had a written contract with the station that specified that "[n]o commissions will be paid to the Employee on advertising fees received by the station after the Employee's final date of actual employment."

There was no dispute that the salesman had received all salary he was due and full

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commissions on all ads that had been paid for before his last day of work. Because the contract specifically said the salesman was not entitled to commissions on revenues received after termination, this would seem to be an easy case. In fact, the salesman's lawsuit would seem to be frivolous on its face. That is what the trial court concluded by ruling in favor of the station. Wrong. Welcome to California, where no claim is frivolous and where easy cases routinely make bad law. In a unanimous decision, the Court of Appeal ruled in favor of the salesman and ordered the station to pay him $19,768.12 plus his costs on appeal.

How can such an obviously incorrect decision be explained? The station argued that the contract was not ambiguous. The Court of Appeal *agreed*: The contract "clearly purports to deny [the salesman] any commissions on advertising fees paid to [the station] after the termination of his employment." The salesman was not a minor, nor was he incompetent (due to insanity or illness) to enter into a contract. The station did not defraud him or force him to sign the contract under duress. He signed the unambiguous contract knowingly, voluntarily, and, in the words of the court, "without any objection or attempting to modify it." How, then, could the salesman possibly win this case?

The short answer is that the court refused to enforce the contract because it found the unambiguous denial of commissions on post-termination revenues to be "unconscionable." The real answer is that the court failed to apprehend the economic principles involved in the case. The court found that the contract was "unconscionable" for several reasons: the salesman did not read it carefully at the time he signed it; the contract was in a standard pre-printed form used by the station; the parties had "unequal bargaining power" because the salesman was an individual and the station was a corporation; and the challenged provision of the contract was, in the court's view, unreasonable. (I am not making this up.)

The court's decision reveals a disturbing lack of familiarity with basic economic concepts—economic illiteracy—on both a practical and a philosophical level. On a practical level, the court has undermined the certainty and predictability on which business, trade, and commerce depend. Under this decision, all contracts, no matter how clear, express and voluntary, may be challenged after the fact if one party fails to read it carefully (or claims not to have read it). Careless and sloppy behavior is encouraged, even rewarded. The courts will become an arbiter after the fact of the "reasonableness" of terms previously agreed to and relied upon by the parties. All commercial transactions—and many transactions between individuals—depend on contracts, and the expectation that agreements, once made, will be enforced. A deal must be a deal. The decision in this case invites chaos in California's business community, not to mention needless litigation. A legal system justly viewed as contributing to an unfavorable business environment has just made things worse.

On a philosophical level, the decision is even more troubling. Our nation was founded on certain political and economic principles, including individual liberty, private property, and limited government. A free-market economy—call it what you like, capitalism, the free enterprise system, or freedom of contract—is an indispensable requirement for personal autonomy and individual liberty. When relationships among people are formed voluntarily, in the absence of fraud or duress, both economic efficiency (or "consumer welfare") and personal freedom are maximized. Accordingly, one of the principal responsibilities of government is the enforcement of contracts. The refusal of government to enforce a valid contract is an interference with and violation of the most fundamental individual liberty citizens have in a free society—the right to determine their relationships on mutually agreeable terms.

The court's opinion not only refuses to enforce an unambiguous contract between competent parties, it does so for dubious reasons. There is no such thing as "unequal bargaining power" among consenting

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adults. In order for a voluntary exchange to take place, both parties must be *willing* to trade something of value to the other. By definition, both parties to a contract believe they will be better off as a result. This principle of voluntary exchange is inherent in every economic transaction we enter into. The allocation of all goods and services in a free economy is determined by the desires expressed by willing buyers and sellers. When a consumer enters a Sears store, or a K-Mart, or a Wal-Mart, his "bargaining power" is the same as it would be at a swap meet, a yard sale, or a Middle Eastern market.

The consumer is not *required* to buy anything, and will not purchase an item unless he regards it as being more valuable than the amount of money being charged for it. Whether that price is established unilaterally by the seller or as the result of negotiation with the buyer is irrelevant. There will be no agreement unless the price is acceptable to both parties. Whether the buyer is a corporation or an individual is also irrelevant. Absent fraud or duress, all voluntary economic exchanges are equally consensual. As recent events have illustrated, even the mightiest Fortune 500 corporation (IBM and General Motors come to mind) cannot force consumers to buy their products if better or cheaper alternatives exist in the market, or if consumers simply don't want them.

At the outset of the employment relationship, the TV station in the *Ellis* case was not legally required to pay commissions to the salesman. It could have paid only a salary. The station was not required to pay a 20 percent commission; it could have offered a 5 percent, or 10 percent, or 15 percent commission instead. Of the many (indeed, infinite) permutations of conceivable terms of employment, the station offered a particular formula of compensation consisting of a specified salary and a specified commission on specified sales. It is not the business of the government (and courts are just another branch of government) to censor terms of voluntary exchanges or to review their "reasonableness." The salesman agreed to the particular package of compensation and benefits offered by the station. The terms were explicit and unambiguous. If the salesman didn't like the terms, he was free to say no, to find another job. But he did not. He entered into a contract with the station. After the fact, he went to court and asked the government to require the station to pay *more* than it had agreed to pay. The court obliged, reciting a litany of nonsensical reasons. The case was an easy one, yet it produced a bad decision. And while the amount in dispute in *Ellis* was relatively small, the court's erroneous reasoning will hold sway in other, more substantial cases. It is a sad commentary on our judicial system that basic economic concepts are so poorly understood. As a consequence, it does not take a hard case to make bad law; for economic illiterates, *any* case will do.

Federal appeals court Judge Alex Kozinski once described a similarly misguided decision of the California Supreme Court as "more resembl[ing] a brick thrown from a third story window than a rule of law."[3] To the TV station in this case—who, after winning in the trial court and incurring attorneys' fees to defend the appeal, is ordered to pay almost $20,000 in commissions that were never bargained for, upon the basis of an argument that was never made by the appellant—the decision in *Ellis* is more like a drive-by shooting. Unfortunately, while the TV station may be the random victim, the *Ellis* decision reflects more than an isolated lapse by a particular panel of appellate judges in California. There is a disturbing phenomenon underway across the nation. At the urging of litigants (both individuals and corporations), courts are increasingly intruding into business and personal relationships. Scholars such as Peter Huber and Walter Olson have documented the "litigation explosion" in America and the accompanying changes in the nation's legal system.

Judge Kozinski, one of the few jurists to decry these changes, has pointed out that the trend toward intrusion into contractual relationships "generates serious costs and uncertainties, trivializes the law, and denies

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individuals the autonomy of adjusting mutual rights and responsibilities through voluntary contractual agreement."[4] According to Judge Kozinski, the result is that "both the commercial world and the courts are needlessly burdened: The parties are hamstrung in developing binding agreements by the absence of clear legal principles; overburdened courts must adjudicate disputes that are incapable of settlement because no one can predict how—or even by what standard—they will be decided."[5] The arrogance of judges who wish to rewrite parties' contracts, with no apparent understanding of the business world in which they interlope, is, in the words of Judge Kozinski,

> symptomatic of a more insidious disease: the novel belief that any problem can be ameliorated if only a court gets involved. Not so. Courts are slow, clumsy, heavy-handed institutions, ill-suited to oversee the negotiations between corporations. . . .
>
> Moreover, because litigation is costly, time-consuming and risky, judicial meddling in many business deals imposes onerous burdens. It wasn't so long ago that being sued (or suing) was an unthinkable event for many small and medium-sized businesses. Today, legal expenses are a standard and often uncontrollable item in every business's budget, diverting resources from more productive areas of entrepreneurship. Nor can commercial enterprises be expected to flourish in a legal atmosphere where every move, every innovation, every business decision must be hedged against the risk of exotic new causes of action and incalculable damages.[6]

"Progressive" judges willing to interfere with the contractual arrangements of others, aside from creating obstacles to commerce, are engaged in an odd exercise of historical atavism. One of the defining characteristics of Western society, and the essence of its emergence from medieval feudalism, is the movement from status to contract. Friedrich Hayek wrote that "the conception of status, of an assigned place that each individual occupies in society, corresponds . . . to a state in which rules . . . single out particular persons or groups and confer upon them special rights and duties. The emphasis on contract as the opposite of status is . . . that the law supplies [the instrument] to the individual to shape his own position."[7] As a matter of history, the simultaneous development of contract principles and a market economy liberated mankind from the squalor and oppression of rigidly hierarchial, status-based feudal systems that had prevailed in Europe for centuries. In the name of protecting individual rights, modern-day judges spurn the freedom of contract that is essential to liberty in favor of status-based classifications that are incompatible with liberty.

This is the supreme irony of our legal system's infatuation with itself and its presumed ability to improve upon the spontaneous, private ordering of the market. That grand conceit, like the conceit of all government regulators, is just another step down the road to serfdom. As Judge Kozinski has warned, the overreaching of government officials into private relationships should be viewed with no less suspicion just because they happen to wear robes.[8] □

1. "Great cases, like hard cases, make bad law" (dissenting opinion in *Northern Securities Company v. United States*, 193 U.S. 197, 400 [1904]).
2. 18 Cal. App. 4th 1796 (1993).
3. *Oki America, Inc. v. Microtech International, Inc.* 872 F.2d 312, 315 (9th Cir. 1989) (Kozinski, J., concurring).
4. *Id.*
5. *Id.*
6. *Id.* at 316.
7. Friedrich Hayek, *The Constitution of Liberty* (Chicago: University of Chicago, 1960), p. 145.
8. 872 F.2d at 316.

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THE FREEMAN
IDEAS ON LIBERTY

"Thou Shalt Not Steal"

by Jan Michal Malek

Poland and the other post-Communist countries of central and eastern Europe are struggling to establish a market society with freedom for all citizens. Advisers from the West who recommend U.S.-type government regulations, banking, and welfare state programs, on the theory that to institute free markets the former Communist nations should follow the U.S. example, are doing the people of those countries no favors. The essential ingredient for turning back Communism and establishing a free market society, as Mr. Malek makes clear in this article, is the protection of private property. The original and longer first version of this article was published in Polish in the Warsaw weekly "Najwyzszy Czas!" on December 11, 1993. That text directed to "common men" was intended to show the main difference between the political Right and Left on the plane of economy.

In the *Communist Manifesto* Marx and Engels stated that the Communist theory could be expressed in one single phrase—"abolition of private property." Various names have been coined to describe Marxian programs—collectivism, nationalization, socialization of the means of production. When put into practice, however, these programs all have one common denominator—reliance on the forceful expropriation by the State of the property of its citizens. If called by its proper name, it would be known simply as theft.

The true Marxists, "Reds," Communists, and the "extreme Leftists," are the most antagonistic toward private property, especially private ownership of the means of production, and are the most radical in their programs to take control over people's property. Others in the Leftist camp—the socialists—are more moderate, proposing a gradual* or partial expropriation or limitation, through state intervention, of the rights of individuals to freely dispose of their property. The more Leftist is the attitude of some parties, groups, or particular people, the less respect they have for individual rights and economic freedom.

Opposing the Leftists are the "Rightists." One main feature of all the Right is its anti-Communism, and subsequently its defense of the right of people to own and freely dispose of all kinds of property, including factors of production. A person deprived of property rights is no longer a free human being. So, by respecting property rights, the "Rightists" are defending freedom.

Whoever claims to belong to the Right, but who advocates giving the State the authority to dispose of the citizens' honestly acquired property (that is, not acquired by

Mr. Malek, born in Poland, has lived in the United States since 1967, working as an engineer, inventor, and real estate investor and developer. He still maintains close ties with friends and relatives in Poland. Mr. Malek has translated into Polish and published Ludwig von Mises' The Anti-Capitalistic Mentality, *and sponsors the translation and publication of other books explaining and promoting the free market.*

**A known official statement in the Communist countries was that "Socialism is the road to Communism."*

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way of violence, deceit, or theft in any form), misleads himself and other people; he acts on behalf of the Left. On occasion it may be necessary—because of a real threat to human life, human freedom, or other people's property. Even then, it must be in exchange for just compensation.

In view of the above, the "extreme Right" label should be applied to those who defend most vigorously the sanctity of legally acquired private property and of the principle "Thou shalt not steal!"

A Natural Right

The notion of property rights has existed in all cultures and in all regions of the world since the beginning of mankind. The right to property, indeed, is seen as a "natural right." People realized very early that violating this right, by engaging in theft of any kind was harmful and dangerous to the community. For that reason theft was punishable under the unwritten common law or in accordance with written regulations such as those in the Babylonian Code of Hammurabi nearly 4,000 years ago. The penalties imposed aimed at insuring the security of people's property and the maintenance of order in the community. The greatest religions of the world condemn theft, that is, the violation of property rights. The Seventh Commandment explicitly forbids theft.

For millennia throughout history, there have existed castes and social classes of people—slaves or serfs—who were essentially the property of others. Those persons had almost no right to own property and possessed virtually nothing. As slaves or serfs generally constituted the great majority of the population, the opportunity to exercise property rights was very limited. The denial of property rights to such a large segment of the population accounted for the slow material progress for thousands of years. Only as new laws permitted the previously underprivileged to enjoy full property rights did individuals begin to gain freedom: first mainly in the Netherlands, then in England, and finally in other Western countries. This freedom brought with it rapid material progress. Later, the capitalist system that evolved—based on respect for property rights, private ownership, and the freedom to own and dispose of the means of production—led to a real outburst of material progress, bringing to the capitalist countries economic welfare such as had never been known before.

If respect for private property yields such beneficial results, could the lack of such respect also have positive economic and social consequences? Suppose some individuals, even the state, disregarded the ancient ban against violating property rights and taking property from others? Could this possibly be beneficial? How about the effect of the loss of respect for private property in countries where it was traditionally, or still is, nominally protected, or at least tolerated?

In truth, the fact that some people and their governments assume the right to take private property from some and distribute it to others wastefully is the main source of most contemporary economic and social ills. Those deprived of their property are victims; and frequently the supposed beneficiaries are victims, too, as their moral standards, freedom, and initiative degenerate. Other innocent people and society as a whole also suffer because of such actions.

"Social Justice"

From its beginning Christianity promulgated the sanctity of the Commandment to love your neighbor. The Left substituted for this Commandment the notion of "social justice," which is supposed to be something better than what is understood as "justice." The concept of "social justice" however, takes no account of the Tenth Commandment—"Thou shalt not covet anything that is thy neighbor's." Moreover, it also ignores the Seventh Commandment—"Thou shalt not steal."

Often, people are misled to believe that the Left's ideas on "social justice" are similar to the teachings of the Church in regard to helping the sick and the poor. This

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is wrong. The Church teaches that the people have to help the needy with their own funds and means (as well as with acts of a non-material type, such as providing moral support). On the other hand, the Left, when in power, confiscates income from productive people to distribute among other groups of people. A small part of this largesse goes to the needy, who in exchange are expected to support the Left's efforts to stay in power. The state bureaucracy then consumes or wastes the major part of those funds acquired by coercion and theft of various forms.

In its plan for "social justice," Leftist governments devise social welfare programs to provide free health care, education, transportation, and recreational facilities. Obviously these services are free to the direct beneficiaries only; the taxpayers must foot the bill. The services offered under these programs are allocated by politicians, administrators, and bureaucrats. As these officials usually look out for their own interests, the programs soon become very expensive. Overhead costs increase. Indirect costs mount also as the implementation of these social programs calls for anti-free-market state interferences that upset the natural market processes. Negative economic and special phenomena follow, such as the inflation, recession, depression, unemployment, experienced by the social democracies of the West. All these negative phenomena arise as the state interferes in economic life and violates the property rights of its citizens. Countries of the Far East with capitalist or similar systems have adopted only very few, if any, of these social programs and are now flourishing economically and beginning to catch up with the West.

In the task of spreading the truth about the evils of violating property rights, which conflicts with the Commandment "Thou shalt not steal," the political Right in essentially Christian countries such as Poland, has, or should have, strong support in the institutions of the influential Catholic Church. Unfortunately however, there are a few clergymen who prefer to avoid discussing in depth the Seventh and Tenth Commandments and who like to criticize, sometimes even from Leftist positions, free-market capitalism. They are critical of capitalism even though that economic system is based on respect of property rights and, therefore, respects the Decalogue's Commandment "Thou shalt not steal."

The criticism by these clergymen usually relates to capitalism's alleged lack of sensitivity toward the poor, exploitation of workers by the rich, and the drive for profit and material things to the detriment of the spiritual life. Yet the capitalist system has improved the conditions of mankind more than any other economic system.

It has raised standards of living to an almost unbelievable extent and substantially lengthened the average lifespan. The dictate of the capitalist system is service to other people—customers, clients, patrons, collectively called consumers. The capitalist who does not serve consumers well by producing goods or delivering services to meet the material needs of the largest number of people, will not be profitable. He may lose his business and his capital, and so cease to be a capitalist.

I believe that one need not go far to perceive here an analogy and an affinity to Christ's Commandment of serving your neighbor. The Christian who does not do good and is not useful to others becomes an empty vessel. So, it is worth pointing out that the dictate or command of serving other people, though in various ways and for completely different reasons, is common to Christianity, other major religions, and free market capitalism. They also have in common with the political Right respect for the property rights of individuals. Without such respect one cannot serve others well. This is one important reason why the Left, which disrespects and violates those rights, always fails in its economic programs.

Even though Christianity, Judaism, Islam, and many other religions stand firmly for the sanctity of the Commandment "Thou shalt not steal," relatively few people realize the vast meaning and implications of that imperative.

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The Politics of Good Intentions

How many people are aware that trying to benefit some at the expense of others, even when done with the best of intentions, leads to detrimental consequences, often directly contrary to what had been intended?

Here are several examples:

1. *Government allowances for poor girls and single women with children.* The idea seems noble enough. Yet, when put into practice in the United States and other countries, such programs have led to drastic increases in the number of illegitimate children, fatherless families, and mothers with children dependent upon the state, which becomes a sort of the "head" of the family. Every poor woman with a child may qualify if the father fails to provide; the allowance comes to her automatically as a kind of reward for having children out of wedlock. Generally, the more children, the higher the welfare benefits. Often each child has a different father(!)* As a result of such policies, during the last quarter of the century the number of illegitimate children has increased several times and is still growing in the United States. These children very often become non-achievers, school dropouts, and drug addicts. Once physically mature, they reproduce themselves and the cycle continues. As the number of women and children on welfare increases, the scope of poverty widens, the institution of the family disintegrates, criminality soars, and the society gradually degenerates.

2. *Progressive taxation* was specifically recommended in Marx's *Communist Manifesto*. By taking the profits of those who are most productive and can best satisfy the material needs of consumers, progressive taxation penalizes those who are most successful in helping others. It also prevents or inhibits the accumulation of capital needed for investment. By hampering new ventures, progressive taxation leads to fewer jobs and more unemployment, lowers productivity, reduces living conditions, and contributes to economic backwardness.

By raising the expenses of employers, progressive taxation may force them to lay off employees or prevent them from hiring new employees or contractors. The funds collected may then go toward unemployment benefits or toward the upkeep of state officials. Thus, the money from progressive taxes is invested in idleness. Productivity declines still further.

3. *The offer of government subsidies attracts more and more applications for handouts.* When unemployment benefits are raised, the number of "unemployed" increases. When benefits for the homeless are raised, more homeless are found. As the state "invests" more in a program to overcome one social problem, more people apply for "benefits" and the problem generally becomes more serious. Private industry withers under the higher and higher taxes needed to pay the costs. At the same time, the bureaucratic welfare "industry" prospers and expands as the numbers of poor unmarried mothers, fatherless children, unemployed, and homeless increase. The bureaucratic "industry" thus has a vested interest in the increase of human misery.

4. *The manipulation of market prices by the state* through "price regulation" may be intended to prevent "unjustified" price rises. Their effect, however, is to deprive manufacturers or service providers of some part of the value of their production, and to transfer that portion to those who obtain the goods or services. This discourages the incentive of producers or service providers to continue or expand production or services. Thus, "price controls" always produce shortages and "black markets" where goods or services are offered at prices higher than they would have been in a free market. Instead of lower prices, therefore, higher prices result, the difference being covered

**Otherwise, the welfare officials of the government would presume that the father stays and supports or will support the family, and that, therefore, the mother does not qualify for the welfare benefits. So it is a financial disincentive for her to run the risk of living permanently with one and the same man, or to marry and have legitimate children.*

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by consumers. These consequences of introducing "price controls" in the name of "social justice" are usually blamed by the government and the ignorant public, not on the regulations, but on speculators and "profiteers."

As the above examples show, government social welfare programs deepen people's poverty. They are not a war against poverty; they are a war against the poor.

The Proper Role of the State

The main purpose of the state should be to ensure the freedom and physical security of citizens and to protect their property from aggression. When the state collects taxes proportionally to insure the safety of the country and the equal protection of all citizens and their property, it acts in conformity with its duties and in agreement with its legitimate purpose. On the other hand, when the state, instead of protecting the property of its citizens, "takes" property from some in order to favor others, then it abuses its powers. In doing so, it shows disrespect for property rights, and acts in conflict with the Commandment "Thou shalt not steal." The distinction between what is allowed, and what is not, becomes blurred. Many then cease to distinguish between right and wrong: When the state justifies its immoral behavior by claiming that it is for the "public weal," that it is in the "public interest," or for the sake of "social justice," private citizens and common men can also find some justification for immoral behavior. This, in turn, contributes to rising crime rates.

The above presentation shows that social and economic programs based on, or involving the rejection of, the Commandment "Thou shalt not steal" bring about results contrary to those intended. In fact, such rejection of property rights by state policies brings misery to the people. In this author's view the injunction and Commandment "Thou shalt not steal," in its broadest sense, is an economic imperative. If the science of economics is meant to provide instructions on how to use, in a most materially efficient and socially beneficial way, the resources available to a nation or other community, this imperative is, or must be, at work in any economic program of the true political Right.

The goal of the Right is to improve the living conditions of the poor by moral and effective means. The disabled, the sick, underage orphans, widows without pensions, the aged without family protection, and the unemployed, should be helped by voluntary, self-help organizations, private, religious foundations, charitable institutions, or guardians operating in local communities and churches. The Right says *yes* to every such truly social welfare program; *no* to government-operated, state welfare programs.

Only the Right can lead the society to prosperity. To achieve the leadership role however, the Right should pay more attention to the economic aspects of its programs, and to undertake an educational offensive of propagation of economic truths among the people. □

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Treachery?

by Scott Alexander

My profession involves me in an aspect of the manufacturing process—surface finishing—in which the opportunity for treachery abounds. My Macmillan Dictionary uses four striking words in its definition of the word treachery—*willful betrayal*, and *violation* of a *trust*. My job is basically two-fold: To assist in the selection and supply of appropriate polishing/buffing equipment and to consider for recommendation products and methods which might improve a production process. To betray my customers or violate their trust in either task would be treachery.

Surface finishing is an ancient art and mysterious craft. Doubt not that buffers and polishers played critical roles in the earliest of industries, from flint-knapping and arrow-fletching to amulet-shining and stone-carving. In my day, surface finishers perform key steps in the preparation and completion of innumerable objects for industry, technology, commerce, medical prostheses, and cosmetology. These articles include hammers, computer chip boards, credit card imprinters, artificial knees, and fingernail buffers. People who are fond of cooking or eating might be surprised to learn that a good quality spatula like a Dexter, is a very highly engineered and refined masterpiece of metallurgy, plastics technology, woodcraft, machinery design, and surface finishing. Accomplished chefs and expert short-order cooks wouldn't be caught dead flipping an egg without the right balanced, bended, beveled spatula.

Such products must meet the demands of the person purchasing them. The demands are seemingly endless! Even when a fry cook will settle for any old spatula in a pinch, he or she still expects one to be available at the closest dimestore or discount outlet and at a reasonable cost and right now! Purchasers also have at their disposal large numbers of advisers like advertisers, experts, know-it-all family members, and trendsetters who shape, influence, and increase their demands. These further demands must be met at a reasonable cost and right now!

Rarely will a purchaser settle so easily. Usually a product must be the right size, of the right material, the right quality, durable, clean, and pretty! Of course, it must also be available at a reasonable cost and right now. Superior surface-finishing method is used to prepare objects' surfaces for fit or further processing like electroplating or to make mundane objects gleam and glisten like gems or clear crystals.

Therein lies a great challenge. Despite the notions some technocrats have of our society being able to categorize, quantify, and standardize just about everything, especially in manufacturing, I insist it can't be done. I say there are two broad reasons for this inability: 1) long before the process of examination, standardization, and publication of approved (licensed?) products and procedures is completed, the initial demands change, and 2) the human beings who attempt to perform the several tasks of production at any level of capitalization do not do so uniformly from person to person nor individually from hour to hour! I really do believe that the way one person pushes a button is different from the way another pushes the same button, despite the obvious similarities.

All this notwithstanding, I daily deal with enterprises which I must not fail to help achieve fabulous finishes measurable to surface scratches of less than one one-millionth of an inch in depth. Results must be attained consistently and without regard to many

Mr. Alexander owns an industrial surface finishing supplier, Better Buff Co. in New Milford, Connecticut. He drew upon FEE materials to complete a bachelor's degree in Operations Management at SUNY.

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constantly changing circumstances. If this process does not succeed, I may be suspected of having behaved treacherously, with having sent the inappropriate abrasive, perhaps through ineptitude, or perhaps to invalidly increase my profit. It's a little scary!

Last Christmas-time, I was able to escape from all that by going gift shopping with my wife, Kathy, to an entire village of shoppes selling crafts-works. I could see that many people are appreciative and receptive of the talents of highly skilled and artistic crafts-workers. I could see why those wonderful articles are so treasured. They are beautiful, interesting, reminiscent, unique, whimsical—or all of the above. It's almost transforming to watch a coppersmith fabricate a lamp using no modern tools, or a weaver in jeans, a baggy sweatshirt, or a depression-era calico dress staring into the loom and threads and s-l-o-w-l-y widening yardage, each crafts-worker doing his or her best to produce a quality product that will merit some purchaser's trust.

As we made our circuit of these specialty shops, in search of unusual gifts, I envied the craftsmen and their products. An adoring public filled their shops, cooed with love over every misshape, broken warp or woof, or peculiar nick, each prized as proof of quality and precious personality.

Producers in an industrial setting where mass production prevails have essentially the same goal—to produce a quality product their customers will want. But they face a different problem—to produce quality products in quantity that are uniform. The time factor also presents a challenge; products must be available here and now.

Part-geometry-standardization required for mass production (accomplished, hopefully, through capitalization) is perhaps the single greatest accomplishment to meet that challenge. Increased productivity makes for increased wealth. Individual skills and performance make for individual productivity. Capitalization makes for more productivity. If the people I serve stopped working or were prevented from pursuing efficiency or employing their genius, we'd all need to return quickly to the handcrafts, weaving, and copper tinkering—or starve!

My experience pointedly illustrated a fundamental fact of the marketplace: An able buyer buys what an able buyer desires, if, as, and when the desire occurs. No amount of training or "paying dues" in the seller's experience is even considered by the buyer. Some buyers want whimsy, a marked absence of uniformity. Others want uniform products immediately that can only be supplied through mass production—products of the right size, right material, right quality as they see it.

So, it was back to the grind; holiday over, I went back to buff-mania! I resumed the fabrication and order-filling of quality finishing fixtures and furnishments. I also began the compilation and summation of the quarter-end and year-end figures for sales tax, use tax, employment tax, etc.

Most manufacturing costs are anticipated. They may be planned for by researching materials costs, labor and facilities costs, and such. Business men and women must know within pennies what their basic costs per hour are. They must have some idea regarding expected selling prices and potential profits.

One very large business consideration which unfailingly eludes the most brilliant business minds and mavens is the impact on operations and costs of a governmental regulation amended with little or no advance notice. It isn't unusual to hear cost analysts or business leaders talk about damages in new tax rates or the need to "right-size" their enterprises according to a newly announced regulation which might affect already-bought-and-paid-for resources.

If a business person has a contract with another business person who arbitrarily alters the agreement, demands more money, more rapid remuneration, increased authority with less expertise—well, you get it! Wouldn't this be a betrayal of the prior agreement? A violation of trust? Wouldn't that be treachery?

Suppose the government does the same? Suppose it alters a previous regulation, fee, or tax, demands more money retroactively, more rapid payment, increased authority? I leave it to the reader to answer. □

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How Japan Realized Her "Impossible Dream"

by Toshio Murata

Eight months after the end of World War II, in the spring of 1946, I brought my men of the Army Field Hospital in Hangzhou, China, back to Japan. When we got off the train at their home station, we found the whole city destroyed, devastated by some powerful bomb or incendiaries. No buildings, houses, or trees were to be seen. Only new shacks here and there. Ichiro Watanabe of our group, who had lived there with his family and had had a store near the railroad station, was so shocked by the hellish scene that he suddenly started singing a lullaby, a requiem to his beloved children. The name of the city was Hiroshima.

Fortunately, my home in Kochi on the island of Shikoku was intact, although the main part of the city had been seriously damaged by bombing on July 4, 1945. As a result, we had an unobstructed view of the whole city from our house. The reconstruction of Japan had to begin, so to speak, from "Ground Zero."

Professor Murata has taught economics for many years at Yokohama Commercial College in Japan. He earned a master's degree at New York University, writing his dissertation under the late Ludwig von Mises. He has also translated several of Dr. Mises' books into Japanese, including, Human Action.

Post-World War II Hardships and Inflation (1945–1949)

The soldiers and civilians who returned from the war aggravated the food and unemployment situation. Production nationwide was in disarray. Of Japan's eighty million or so people, close to 10 million were non-producers, either in the military or on some other government payroll. Land reform, abolition of the peerage system, and the liquidation of big financial combinations had overturned the entire prewar social structure. Bank deposits had been frozen; depositors could withdraw only a limited amount each month. The prewar privileged were hard-pressed to survive, while some who had experienced hyperinflation and other calamities abroad had learned how to make a fast buck. There was a serious shortage of food. Farmers were more fortunate than most as they were able to trade their rice for jewels, furniture, kimonos, wedding costumes, or whatever, with those who were trying to supplement their insufficient rations.

In those post-war days, the Japanese could "escape" for a few hours by watching American movies. Beautiful American houses and appetizing food on the screen were the envy of the Japanese. "Catch up and pass America" became their goal. But at that time it seemed an "impossible dream."

The government tried to cope with the shortages by printing money, i.e., inflating. When prices rose because of the demands for commodities by the new money recipients, the government attempted to fix prices, at least of the major staples. The government's Price Control Board had to hire more clerks to keep pace with the increased applications from businessmen for price increases. But government controls and government employment could not bring economic development to Japan. That would take the energy and genius of entrepreneurs who were freed to compete on world markets. Eventually Japanese business produced steel, refined oil, built ships, manufactured automobiles, and developed a

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wide range of consumer electronics goods. Honda, Toyota, Nintendo, Sony, and Canon became household words throughout the world.

Recovery Begins

The Reconstruction Finance Bank (RFB), founded in January 1947, floated bonds, most of which were underwritten by the Bank of Japan, and loaned money to producers of priority goods— food, coal, steel, ships, electricity, etc. The RFB's loans increased the production of coal, iron, steel, and rice, but at a high price: accelerated inflation.

An American adviser, Dr. Joseph M. Dodge, visited Japan in February 1949; his aim was to stop the inflation. The "Dodge Line" he prescribed called for reducing subsidies, discontinuing the RFB bonds, and developing a government surplus. Inflation subsided as a result and production began to revive.

With the intent of encouraging economic development, the government restructured its Ministry of Commerce and Industry in May 1949, forming a new Ministry of International Trade and Industry (MITI). MITI hoped to shape and direct Japanese production by administrative regulations. It has had an impact on steel, oil, and trade. However, its influence has not been complete, and it has not always been beneficial. MITI's administrative regulations were not supposed to be binding but businesses generally felt compelled to go along "voluntarily," or face possible "bureaucratic harassment" later. Administrative guidelines could also be used as a barrier to deregulation.

Many production facilities had been reduced to ashes during the war. So new plants had to be constructed and the latest technology was imported. The new factories with low labor costs had a competitive edge over American plants; they were able to cut costs and increase productivity. Investment expanded and economic reconstruction accelerated. However, the quality of Japanese products in those years was often inferior. People used to say that "After the war, only women and nylon stockings were stronger." But changes were in the offing.

Economic Development Takes Off After 1950

Transportation was difficult in those early years after the war. Many Japanese workers commuted long distances to their jobs by bicycle. Then in 1947, a company with only twelve employees devised a bicycle with a small motor, the Honda Kabu. This little motorcycle met a crying need. Thanks to the initiative and energy of the company's management, it expanded production in response to consumer demand. It made not only motorcycles but also began producing automobiles. Its efforts paid off. It went on in time to become the present Honda Group, with thousands of employees, exporting so many cars to America and Europe as to cause international friction. The oil shock of 1973, when OPEC blocked the export of Middle East petroleum, was actually a windfall for the small economical Honda with its high gas mileage. In 1980, the Japanese surpassed the Americans in car production for the first time. Soon Japanese car manufacturers were asked to restrict exports themselves. Later they developed close working relations with U.S. automobile manufacturers and began producing cars in the States.

Steel

MITI sought to balance production, to avoid both surpluses and shortages. When in 1950 Kawasaki Steel's president, Yataro Nishiyama, announced plans for building a plant with two new blast furnaces, he encountered strong objections from MITI, the Bank of Japan, and the big-three steel makers. They feared an oversupply of steel and criticized his proposal as wasteful, unnecessary, and a duplication of investment. They pointed out that 19 of the then existing 37 blast furnaces were idle for lack of orders.[1] But Nishiyama was not discouraged; a third of the existing furnaces, he

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said, were over 30 years old; his modern blast furnaces would cut the cost of steel substantially. He went ahead. In February 1953, MITI finally approved the first phase of Kawasaki's project and the company was able to borrow from the Japan Development Bank and the Bank of Japan. In time Kawasaki became one of the big six, diversifying in 1991 into chemicals, and acquiring in June 1994 a Du Pont Chemical England plant making plastic compounds for use in auto parts. While government agencies like MITI look at what *is*, businessmen who risk their own funds do their best to anticipate what *will be*, what consumers will want in the future. In this case, Nishiyama was right; if he had acceded to MITI's administrative guidelines in 1951, his company's development and expansion would have been checked before it began.

Opinion concerning MITI was thus divided. Government control versus free competition was the issue. During the 1965 recession, MITI sought to curtail steel production; six firms agreed to go along with the plan. However, Sumitomo Metals, with 4.5 percent share of the country's steel production, clashed with MITI; it considered it unfair to restrict its output, an unnecessary intervention with private enterprise. The company's president, Hosai Hyuga, had guts. He was a leading businessman of Osaka, a city whose people were known for their free and independent spirits. He refused to accede to MITI's administrative guidelines requiring a cut in production. The conflict between him and MITI made headlines. At first, Hyuga had the backing of other steel producers, but soon he was standing alone against MITI. Moreover, MITI warned Hyuga that Sumitomo would not be allowed to import more materials than those needed for its quota of the reduced production. Hyuga had to compromise and Sumitomo reduced its production of steel. Three years later in 1959 he appointed an ex-MITI bureaucrat to its Board of Directors "voluntarily."[2]

The case of Yawata Steel was very different. Originally established as a government enterprise in 1899, it was privatized only after the war. But it retained close links with the government. In October 1969, with MITI approval, it merged with Fuji Steel to form the world's largest steel producer, New Japan Steel Corp. New Japan Steel became in effect a MITI-protected "cartel," virtually an "executive organization" of MITI's Basic Industries Bureau.[3] MITI and New Japan Steel together strove to stabilize steel markets and maintain steel prices, to hold them up by preventing what they considered "excessive" competition that might bring prices down.

While this was going on, small producers with open-hearth furnaces were gradually replacing them with electric or revolving furnaces. Twenty-three new electric furnaces were constructed between 1973 and 1978. By 1975–1977, Japan was becoming one of the world's big three in steel production; its 1976 exports were the highest in its history. Yet, New Japan Steel's market share was dropping—from 35.7 percent at the time of the merger in 1970 to 26.86 per cent in 1986.[4]

Although Japan's steel exports fell and her balance of trade went down in December 1978, as a result of the oil crisis, MITI persisted in trying to reduce steel production. It designated the open-hearth furnace industry a "depressed industry" and demanded that some production facilities be shut down. Blast-furnace steel makers, protected by MITI and depending on "cost-plus pricing," along with small- and medium-sized steel makers, joined the "recession cartel." However, privately operated Tokyo Steel refused to go along. It struggled bravely against MITI and the cartel. Tokyo Steel's chairman and president, for years strong advocates of free and open competition, remarked: "Regulations imposed by a comprehensive network of administrative guidelines now pervade the steel industry, seriously hindering proper competition. . . . We can survive ourselves without relying on MITI's guidance."[5]

By competing with the large blast-furnace steel producers, Tokyo Steel has become the leading steel producer using electric furnaces. It is very efficiently operated. Its

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head office occupies only 1,600 square meters of floor space; its Administration Division's 21 employees administer sales of 200 billion yen; its Marketing Division employs only 29 persons; each staff member has his own personal network-linked computer, reducing paperwork and the time spent on meetings. Contrast Tokyo Steel's efficiency with that of MITI-supported New Japan Steel with 1,700 employees in its headquarters and, according to its consolidated income statement of March 31, 1994, a deficit of 54 billion yen.[6]

Petroleum

The Petroleum Industry Law of 1962, originally enacted to strengthen MITI and counteract the future liberalization of imports, provided that (1) MITI publish a petroleum supply plan as a guideline for producers, (2) oil producers conform to MITI's production plan, (3) producers modify their production plan if MITI's and the producers' figures did not agree, (4) MITI approve new facilities, and (5) MITI set prices. Refiners resented the regulation of their facilities and, in anticipation of its enactment, expanded operations. MITI had not expected such an expansion and asked refiners to restrict their production themselves; the Petroleum Association was made to coordinate its members' production.

In October 1970, OPEC began to raise the prices of crude oil but MITI did not permit a markup in kerosene prices. To compensate producers for losses MITI, by administrative guidelines, allowed increases in other prices. A virtual "black cartel" emerged as a result of MITI and oil-industry cooperation in controlling the production and prices of oil and kerosene.

On October 6, 1973, the first OPEC-induced oil crisis occurred. Since Japanese industries depended heavily on Middle-East oil, all prices of petrochemicals went up 334 percent and housewives rushed to buy anything and everything, even toilet paper and detergents. MITI's response was to regulate the distribution and consumption of petroleum. The prices of petrochemical goods were frozen. Producers who could not shift their higher costs to customers inevitably suffered losses. However, the efforts of private businesses to cut costs and to innovate led to lower oil consumption and improved productivity.

In 1986, Taiji Sato, president of Lions Petroleum, tried to import oil which he expected to sell in Japan below MITI's rigged price. The importation of oil was not then prohibited. But when MITI learned that Lions' oil tanker was approaching Japan, it had the tanker blocked, prevented Lions' bank from lending the money needed to finance the shipment, and persuaded the Japanese government to pressure foreign governments to cancel Lions' contracts for purchases of oil.[7] Although the company is no longer in existence, Sato's efforts have not been in vain. As a result of internal and external pressures, MITI's powers are being curbed. This past summer the question of liberalizing petroleum imports was finally presented to the Subcommittee on Fundamental Problems of Petroleum Policy of the Petroleum Deliberation Council. Also, MITI now intends to abolish, by the end of 1995, the law regulating the importation of certain petroleum products. And the regulations on the opening of filling stations will be gradually repealed.

Privatization and the Market Economy (1980–1985)

The early 1980s was the era of Prime Minister Thatcher and President Reagan. Japanese Prime Minister Nakasone dreamed of privatization and in 1981 he began to carry out his dream. Japan Telegraph and Telephone Public Corporation was privatized as the Nippon Telegraph and Telephone Corporation (NTT) in 1985. The Japan Monopoly Corporation was privatized in 1985 as the Japan Tobacco Industry Corporation (JT). And in 1987, the Nippon National Railways (JR) was divided into six passenger companies and one freight company, solving in the process its 37.5 trillion yen accumulated debt problem. These privatizations were not only great achievements

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for Nakasone and his Cabinet but for the companies too; their respective financial situations improved.

A fairly recent contender on the Japanese Market is Nintendo which came into prominence during this period. The company began as a small firm making traditional flower cards, then other playing cards, and still later plastic playing cards with Disney characters on them. Then in 1983, Nintendo created game computers for children that took the world by storm. Children all over the world became Nintendo fanatics. In 1993, Nintendo, with 890 employees, earned 163.7 billion yen. Compare that with Toyota which, that same year, 1993, with 72,000 employees, earned 280 billion yen, its greatest operating profits ever. However, nothing ever stands still on the market. To maintain his position on the market, every entrepreneur must re-earn the support of his customers everyday. Nintendo's position is now being seriously challenged by Sega Enterprises, makers of new electronic games.

It is not possible within this space to trace the ups and downs of the Japanese yen to the U.S. dollar and the effects of these fluctuations on Japan's exports and imports. At times the Bank of Japan pursued an easy money policy, weakening the yen; at other times it raised interest rates, strengthening the yen. These changes alternately encouraged or discouraged international trade in the short term. Throughout these fluctuations, however, the Japanese saved and invested in stocks, bonds, and real estate, even foreign real estate. It was their energy, hard work, and ingenuity that was to be responsible for Japan's long-term economic development.

MITI's Powers Reduced

As we have seen, MITI's attempts to direct Japan's production have not always been successful. When it tried to maintain steel prices for the benefit of its cartel members by restricting steel output, some of the more energetic steel producers resisted. When it tried to cope with oil shortages by controlling prices and distribution rather than encouraging imports, consumers of petroleum products objected. After 45 years of trying to foster economic development in Japan and coordinate supply and demand, MITI's powers are now being curbed.

On February 8, 1994, the Hosokawa Cabinet announced a policy of deregulation. The proposed program should wipe out many of the more than 12,000 regulations issued by MITI and the Ministries of Transportation, Agriculture, Forestry and Fishery, Finance, and Health and Welfare. The plan appears excellent on paper and if implemented would increase productivity and reduce price differentials between Japan and the United States. The question remains, however, whether this large-scale deregulation can be carried out without being sabotaged by bureaucrats who want to retain power.

Nobuyoshi Namiki, formerly chief of MITI's Industrial Structure Section, reveals the truth about the Petroleum Industry Law:

> The world attributed the cause of the high-speed growth of Japan after 1985 to Japanese industrial policy. But this is far from the truth. It is true that Japan enjoyed high-speed growth, but that was caused by the efforts of diligent and honest Japanese workers and by the tenacity of executives filled with never-quenching aspiration, working under "excessive" competition.[8]

The February 26, 1994, issue of *The Economist* reports on recent research concerning MITI. Professors Richard Beason (University of Alberta) and David Weinstein (Harvard) note four tools of industrial policy which had been offered to 13 sectors of the Japanese economy between 1955 and 1990—cheap loans, net transfers, trade protection, and tax relief. Beason and Weinstein asked "whether the most-helped sectors grew fastest?" and found that "support was given on the whole to slow-growth industries. . . . That the economy succeeded for decades is plain enough," they said. "But, on this evidence, industrial policy may well have hindered rather than advanced the cause."[9]

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Beason and Weinstein confirm Nobuyoshi Namiki's position. MITI is not so mighty as once it was; its power has been considerably reduced. In the world of kaleidoscopic, wide-ranging international trade that has developed, MITI can do little more than offer subsidies to dying industries

Real Causes of Japanese Economic Development

The true explanation of Japan's successful post-war economic development rests, not on MITI's "industrial policy," but on good old-fashioned virtues—saving, hard work, reduced government spending, and innovative entrepreneurship—combined with ingenious marketing techniques and relatively free world trade.

1. Saving. The Japanese have a tradition of saving and as they struggled to pull themselves up from "Ground Zero" after World War II, most Japanese managed to consume a little less each year than they produced. On the basis of 1971–1991 figures, the average gross saving rate in Japan was twice that in the United States; the saving rate per household in Japan was 2.7 times that in the States.[10] As production depends on capital savings and investment, this gave a substantial boost to Japan's economy.

2. Diligence. Japanese workers in general are hard-working, even to the point of being workaholics. This also contributed to the rapid growth of the Japanese economy. In 1992, workers averaged 1,972 hours per year; since then their hours have been gradually reduced and in 1996, they are expected to work less than 1,800 hours. Public offices, banks, and post offices now have a full five-day work week. Also there are fewer strikes in Japan and Japanese workers lose fewer days from strikes than in the United States.[11]

3. Government spending for defense. According to the *National Defense White Paper*, the average ratio of defense expenditures in Japan to GNP for the period 1981–1991 was 0.98 percent, while in the United States, Britain, and West Germany the ratios to GDP were 6.2 percent, 4.8 percent, and 3.0 percent respectively. Thus, taxes in Japan were lower and more funds were available for investment than in other advanced countries.

4. Independence and Entrepreneurship. Osaka is a city known for the entrepreneurial spirit of its inhabitants. Osaka was the home of at least two firms that resisted MITI—Kawasaki Steel and Sumitomo Metals. Yujiro Iwai, an Osakaite and former president of Iwai and Co., reflected that "the fundamental philosophy of the citizens in Osaka concerning the economy seems to be free and independent—they try hard not to depend on others, not even on the government." Iwai finds this spirit expressed in a *haiku* by Raizan Konishi (1654–1716)—"*Obugyo no na sae shirazu toshi kurenu*" ("The year has come to an end, Without even knowing the name, of the magistrate.")

The world of Osakaites, as described by Iwai, is the very "opposite of that portrayed in George Orwell's *1984*, where the face and voice of the leader penetrated the lives of the people from morning till night through means of mass communication . . . . Is it possible to realize a free world where we can live without even knowing the name of the magistrate? Osakaites believe it is."[12]

5. Innovative management and marketing. Japanese exports in prewar days were regarded as "cheap, but of poor quality." W. E. Deming, a U.S. professor, played a major role in improving the quality of Japanese goods. A prize established in his honor is awarded to individuals and companies making important contributions to quality control. Today, thanks no doubt to lessons learned from Professor Deming and from taking consumer wishes to heart, Japanese appliances and automobiles are rated among the best in the world.

In Japan, consumer sovereignty is recognized in the field of marketing. To sell their products and services and earn profits, producers realize they must satisfy their customers. The success of Japanese exporters has depended largely on their efforts to learn the languages, customs, tastes, and demands of potential purchasers in other countries. Matsushita, a manufacturer of appli-

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ances, now sends some of its employees to Frankfurt (Germany) as resident engineers in charge of product development. Their families accompany them. The company believes that their engineers must experience European daily life to develop new washing machines which will satisfy European buyers.[13]

American producers who want to sell in Japan would do well to try a similar approach; they would then realize that the narrow width of the staircase in a typical Japanese home makes it difficult or impossible to carry any appliance wider than 25 inches—washing machine or refrigerator, for instance— up the 30–3/4 inches wide steps to the second floor without scratching the walls. Only recently have U.S. automobile manufactures begun producing for export to Japan low-priced cars comparable in quality to those the Japanese make for export. Also it was not until this past summer (1994) that Ford changed the steering wheels on their cars to accommodate the Japanese who drive on the left side of the road. If American goods were suitably modified to satisfy Japanese consumers, U.S. sales to Japan would surely increase.

6. Free Trade. Japan's rapid development was made possible by relatively free trade throughout the world. When I was a boy, world trade was not free; there were conflicts between the "have" and "have-not" nations. With poor natural resources, I feared that Japan, without free world trade to permit Japanese firms to import raw materials, process them, and export their products, could never expect to develop economically. I was greatly encouraged when I learned from Mises' *Human Action*, that economic development depends, not on rich natural resources, but on capital accumulation per capita and free trade.

Japanese Tradition

On the campus of the Tanaka Junior High School, Kashiwa City in Chiba Prefecture, there stands a statue of the respected Japanese philosopher Kinjiro Ninomiya (1787–1856). He is reading a book while carrying a bundle of firewood on his back.[14] Ninomiya's desire to learn was so intense that he used to read while he walked to work. His message of diligence and saving for the future and for doing good voluntarily was firmly imprinted on all Japanese students from his time until the end of the war. Japanese who are now over sixty years of age continue to admonish their sons and daughters in the words of Ninomiya: "Save, waste not; otherwise heaven will punish you." Thus by encouraging generations of Japanese to save, Ninomiya played an important part in Japan's post-World War II economic development. By doing so, he made it possible for the Japanese people to realize their "impossible dream." □

1. November 3, 1951, *Asahi Shinbun*.

2. For details see Chalmers Johnson, *MITI and the Japanese Miracle: The Growth of Industrial Policy 1925–1975*, Charles E. Tuttle Co., 1986, pp. 269–271.

3. The close Yawata-government ties were reflected by New Japan Steel's president, Yoshihiro Inayama, when he bragged, "Steel is the state."

4. Hajime Tainaka, *Shin Nittetsu niokeru Shippai no Kenkyu* (A Case Study of the Failure of New Japan Steel), Eru Publishing, 1987, pp. 65–66.

5. Tainaka, *ibid.*, p. 62.

6. *The Diamond Weekly*, June 4, 1994, pp. 40–42.

7. See, Toshio Murata, "The Lion that Roared," *Reason*, May 1986, p. 43.

8. Nobuyoshi Namiki, *Tsusansho no Shuen: Shakai Kozo no Henkaku wa Kano ka* (The End of MITI: Is Renovation of Social Structure Possible?), Diamond-Sha, 1989, p. 61.

9. Quoted in the *Economist* February 26, 1994, from "Growth, Economies of Scale, and Targeting in Japan (1955–90)," *Harvard Institute of Economic Research, Discussion Paper 1644*.

10. International Comparison of saving ratio (1971–1991)

	Gross Saving Rate	Household Saving Rate
Japan	33.3%	18%
U.S.A.	15.2	6.6
U.K.	17.7	6.8
West Germany	23.2	12.3
France	21.9	13.0

Source: Averaged from the data of Bank of Japan "International Comparison of Saving Rates."

Gross saving rate = gross savings (savings + depletion of fixed capital) / GNP; Household saving rate = household savings / household disposable income.

11. According to ILO *Labor Statistics Year Book 1991*, the number of strikers and the lost labor days in Japan and in America in 1985 and 1989, were as follows:

	Number of Strikers		Lost Labor Days	
	1985	1989	1985	1989
Japan	123,400	85,800	264,100	219,100
U.S.A.	323,900	452,100	7,079,100	16,530,000

12. Yujiro Iwai, *Osaka Shonin no Tetsugaku* (A Philosophy of Osaka Merchant), Tokyo Nunoi Shuppan, 1981, pp. 76–77.

13. The *Nikkei Shinbun*, March 30, 1994.

14. Surprisingly Ninomiya's statue is made of cement, not of its original bronze which was melted down for bullets during World War II. Unfortunately many new schools do not have statues of Ninomiya, and he and his message are gradually being forgotten.

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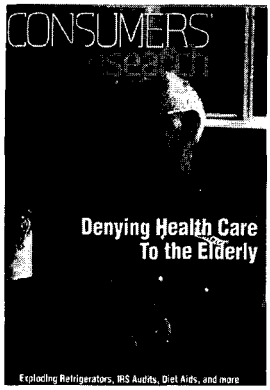

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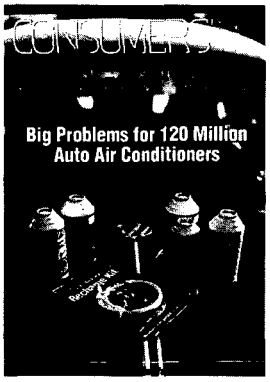

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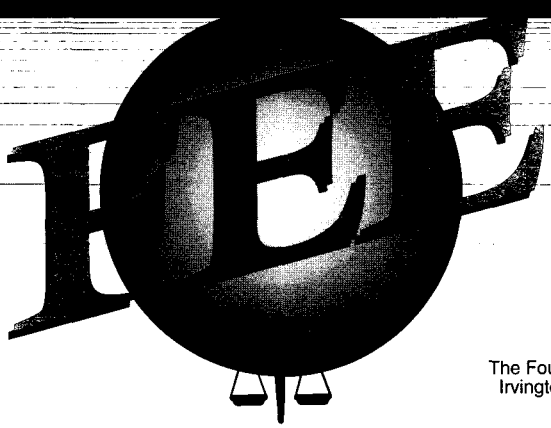

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The Costs of Crime

For most of us, crime is something we read about in the papers—something that affects other people. Yet, it always looms around the corner, especially in inner cities. We are reluctant to go out at night for fear of being robbed, beaten, raped, or even murdered. The annual crime rate in the United States now exceeds five percent of population; in every large city and many small ones it is higher yet.

What is a crime? We may answer this question in terms of that which is immoral, or we may think of it in terms of that which is illegal. In a humanistic society like ours, immorality and illegality may be widely different concepts: the immoral may be legal and the moral may be illegal. Abortion, adultery, homosexual activities, and political plunder may be legal, but self-defense may be illegal. If you shoot a robber or rapist in self-defense, you are likely to suffer imprisonment and face financial obligations to the robber. If you merely resist a tax collector who seizes most of your income, his agents may silence you forever.

Crime, in the legal sense, is anything made illegal by legislators and regulators. The Department of Justice distinguishes between (1) violent crimes and (2) crimes against property. We may add to this classification (3) violations of government rules and regulations. Violent crimes are wrongs against persons such as murder, rape, assault, and robbery. Crimes against property include fraud, burglary, theft, embezzlement, forgery, arson, vandalism, and the like. Violations of government rules and regulations primarily are economic offenses such as working without a license, trading without a permit or non- or underpayment of taxes and duties, trading in illegal goods and services, charging prices which are too high or too low, and other such offenses against the state. In socialistic countries, these are deemed more serious and are pursued and prosecuted more severely than the crimes against private property.

The costs of crime in the United States can only be surmised; they are far greater than the official crime statistics indicate. Many criminal activities go unreported, and those which are reported are merely counted rather than evaluated as to their costs. But, above all, no crime statistics reveal the pain and suffering and the costs of fear which stifles activity, prevents production, leads to relocation, and necessitates protection expenditures in many forms and designs. A fearful society is a poor society that is crippled by fear and burdened by high costs of defense.

The economic costs of violent crime include not only the healthcare costs of medical treatment and rehabilitation but also the loss of earnings of the victim and the individuals who care for the victim. The costs of crimes against property are the replacement values of the property destroyed or damaged. Violations of government rules and regulations may actually improve the economic conditions not only of the perpetrator but also of the people he serves. The plumbing service rendered without a license is a service; the prosecution of the plumber diminishes the value of his service. The costs of such law enforcement, although significant in dollars and cents, are relatively small when compared with the loss of production caused by the rules and regulations themselves.

In a free society it is the very raison d'être, "the be-all and end-all" of government to protect life and property against all enemies, foreign and domestic. Government attends to the prevention, apprehension, and correction of crimes. The resources used for these purposes are withdrawn from other goods and services; they are additional costs of crime. But these expenditures, which can be estimated with a fair degree of accuracy, may actually be productive and

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improve human wellbeing—provided the benefits of the crime-fighting activities exceed the costs of crime.

In the United States total crime-fighting expenditures now exceed $150 billion a year, with the federal government bearing some ten percent of the costs (an estimated $16.182 billion in fiscal 1994), the states some thirty percent, and local governments sixty percent. What are the benefits of these expenditures? Are they spent in the best possible way?

Most observers are divided on these questions. Government officials engaged in police protection, judicial and legal organization, and the correction system invariably call for more money and bigger budgets. Their very economic existence depends on the generous allocation of taxpayer funds. They plead their case pointing at case overloads and inability to handle all the criminals arrested. They justify plea bargaining, that is, sentencing criminals for lesser crimes, or early releases from prison because of inadequate confinement facilities.

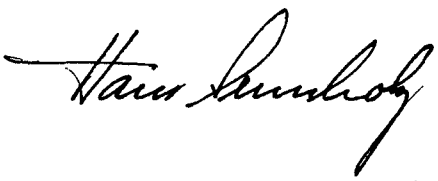
Most Americans reject these explanations. They are alarmed by the fact that crime rates have been increasing over the years although crime-fighting expenditures have soared. U.S. crime rates are among the highest in the world, exceeded only in countries in a state of chaos and disintegration. The crime protection system is the most expensive system in the world and yet rather inefficient and possibly even counterproductive.

A great deal of the visible overload of the crime prevention system stems from the use of the police and the judicial, legal, and correction systems against violators of government rules and regulations. Permits and licenses are the source of much jurisdiction and enforcement activity. The local police may be occupied with chasing taxicabs without a proper medallion, hunting street vendors without a permit, and arresting landlords violating a housing code. Federal courts sit in judgment of regulation violations filed by the Export Administration, Technology Administration, Federal Energy Regulatory Commission, Food and Drug Administration, Substance Abuse and Mental Health Administration, Drug Enforcement Administration, Pension and Welfare Benefits Administration, Employment Standards Administration, Federal Labor Relations Authority, Occupational Safety and Health Administration, Mine Safety and Health Administration, Federal Railroad Administration, Federal Aviation Administration, Maritime Administration, Environmental Protection Agency, Commission on Civil Rights, Equal Employment Opportunity Commission, Federal Communications Commission, Federal Banking Commission, Federal Trade Commission, International Trade Commission, Interstate Commerce Commission, and many other regulatory authorities too numerous to mention. The present court overload would soon turn to excess capacity without the countless charges made by the regulators.

The moral standards and social values of society are important determinants of criminal activities. Common attitudes toward murder and manslaughter, cheating and stealing, set the stage for criminal activity. The welfare-transfer state is both cause and effect of changing standards. By preying on its most productive members, seizing large shares of their income and wealth, it paves the way for criminal imitators engaging in individual "redistribution." Similarly, the courts now render deep-pocket judgments, and millions of litigants press for deep-pocket decisions.

The same ideology has given rise to perverse attitudes toward individuals engaging in criminal activities. It has popularized the socialistic notion that poverty is the consequence of capitalistic exploitation, of employer greed and covetousness. Poor criminals bear little responsibility for their evil deeds; society primarily is responsible. This very notion seems to permeate not only the trial and conviction process, but also the correctional system. Its crime-deterring effect is minimal, according to some expert observers, even counterproductive. The chances of apprehension of criminals are small and the chances of trial and conviction of those apprehended even smaller. The few criminals who actually serve short confinements may relax because American prisons now resemble exclusive recreation and entertainment facilities. The amenities of criminals in prisons exceed by far not only those of criminals at large but also those of most victims. The recreational and educational facilities of American prisons, to which taxpaying victims are forced to contribute, surpass those of most exclusive country resorts. They make the criminal justice system visibly counterproductive.

Criminal activity stems from many causes. Some are clearly visible in our courtrooms and prisons.



Hans F. Sennholz

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You cannot comfort all in distress, nor support all the underprivileged.
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Mary Sennholz, Editor

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Ludwig von Mises was born on September 29, 1881, in Lemberg in what was then Austria-Hungary. On February 20, 1906, the University of Vienna conferred upon him the degree of Doctor of Law and Social Sciences. In commemoration of the fiftieth anniversary of this event in the life of Ludwig von Mises some of his friends and disciples prepared an enduring *Festschrift*, the title of which indicates his greatest concern: freedom and free enterprise.

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THE FREEMAN
IDEAS ON LIBERTY

Science—Coming Out of the Closet

by Eric W. Hagen and James J. Worman

Throughout history people have been deluged with warnings that the earth is approaching its final days, and unless some drastic, immediate action is undertaken, it is the end for the human race. In recent years, events such as the twentieth anniversary of the first Earth Day and the United Nations-sponsored "Earth Summit" have popularized the notion that an ecological crisis is imminent. Throughout the last two decades, many so-called experts have posited alarmist theories on overpopulation, global warming/cooling, natural resource depletion, and cancer-causing chemicals. Although such claims are nothing new, the public is frightened into thinking that their government must take draconian measures to "save the planet." In many instances, the public has been manipulated by a news media that is too quick to accept such doomsday prophecies and pass them on to a largely scientifically illiterate audience.

Environmentalism obviously has enormous popular appeal. Nowadays, more people recycle than vote. Businesses frequently promote their products as "environmentally friendly." The U.S. environmental lobby has become the largest political lobby in the country. Total annual budgets for these organizations are estimated to exceed a quarter of a billion dollars, and demands by such groups for government action have led to the Environmental Protection Agency imposing almost $1.5 trillion in compliance costs on the U.S. economy.[1] And these actions have not always led to beneficial results. The government has wasted billions of taxpayers' dollars to save what amounts to one person in one million over a lifetime. Examples of bureaucratic bungling, in which good intentions only lead to disastrous results, are everywhere apparent. This squandering of funds has bankrupted the nation, and taxpayers are beginning to question whether or not they can afford the luxury of these scientific gambles.

In recent years, several scientists have come forth disputing the theories of apocalypse promoters Paul Ehrlich, Barry Commoner, Jeremy Rifkin, and others, attempting to add some common sense and rationality to the confusion and hype that too often surrounds environmental issues. Those who confront the alarmists always run the risk of being demonized by environmental activists and lobbyists, but they also realize the danger of being silent on issues that are crucial to the quality of life, the efficacy of government, and the integrity of science. Oddly enough, the technical information to challenge alarmist thinking has been provided in the peer-reviewed scientific literature for years. This information has not reached the public though because many scientists have been more concerned with their work in the laboratory and less concerned with challenging public misinformation.

Mr. Hagen, a graduate of Pepperdine University with a bachelor's degree in biology, recently received master of arts degree in Liberal Studies at Dartmouth College in Hanover, New Hampshire. Mr. Hagen is an editor for The Dartmouth Review, *a conservative newspaper distributed on campus.*

Dr. Worman is a Visiting Professor of Chemistry at Dartmouth College and thesis adviser for Mr. Hagen. Dr. Worman has been involved in teaching and research for twenty-seven years; his recent efforts include communicating scientific choices to the public.

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A Backlash

The tide is turning, perhaps. The October 11, 1993, issue of *Newsweek* reported that a "backlash against environmentalism is in full swing."[2] What began as a few scientists boldly questioning why certain policies should be implemented has evolved into a full-fledged backlash against environmental extremism. This has manifested itself in large grassroots movements, best-selling books, numerous newspaper editorials, and popular radio talk shows. Those who challenge the "popular vision"[3] of environmental doom and gloom have been labeled as "eco-revisionists," "anti-environmentalists," and other names that suggest their being at odds with promoting a cleaner, safer, and sustainable environment. Of course, no one with a sound mind is against clean air and water, and it goes without saying that most people want to be safe from carcinogens and hazardous chemicals.

Skeptics of the "eco-crisis" are portrayed as a serious threat when an environmental journalist, such as Sharon Begley of *Newsweek*, reports, "If the critics are right, the globe has little to worry about. But if they win the debate and are wrong, it will be too late for repairs."[4] Such a statement is common among alarmists. Supposedly, dire consequences only result from inaction. No mention is ever made about the sacrificing of individual liberties and property rights, nor of national sovereignty to international treaties, and, lest we forget, the billions of tax dollars and costs on the economy, particularly to small-businessmen and entrepreneurs, that result from overreaching and unnecessary policies and regulations.

It is therefore crucial that before undertaking massive government ventures to deal with environmental concerns that people become fully informed and renew their sense of healthy, rational skepticism. This attitude must include a relentless search for the truth and a knowledge of what has occurred in the past. In order to do this, one must know what constitutes good science and what lessons history has revealed.

Philosopher of science Karl Popper once asserted that for any meaningful scientific statement or theory in the physical sciences to be credible, it must be *falsifiable*. In other words, it must be specific enough to be proven wrong. It need not be false—it can certainly be true—but such a hypothesis requires that it be testable. If the technical means are not available for testing, it must still be able to be tested in principle. With this in mind, it would seem odd that so many of the pseudoscientific claims (ESP, astrology, UFOs, etc.) which can never be proved wrong have so much influence on the public.[5]

Predictions that humans will soon destroy the earth stand only the test of time. Thus, skeptics are put in the difficult position of defending their ground. Since it is logically impossible to prove a negative (such as UFOs do not exist), one cannot prove that the earth will not end tomorrow. While the onus of proof should be on the one who asserts the positive, this is rarely the case. The results of past eschatological predictions can be revealed. Even so, as far off as many of these projections have been, it seems to make little difference. Original statements are revised to explain why things turned out differently, another dismal forecast is made, and the credibility of those making the initial claims remains astonishingly intact.

For example, entomologist Paul Ehrlich, in his 1968 manifesto, *The Population Bomb*, predicted that in the 1970s overpopulation would lead to global catastrophes of mass starvation, natural resource depletion, plus food and water rationing. The oceans would be as dead as Lake Erie by 1979. Flush toilets would be banned by 1974. Water pollution would be so bad by the mid-1970s that cases of hepatitis and dysentery would increase by 500 percent. Urban dwellers would have to wear gas masks by 1980 because of poor air quality.

A quarter century after *The Population Bomb*, every prediction made by Ehrlich has proven untrue. The world population growth rate has been declining since the 1960s. Human lifespans continue to lengthen. Most commodities are cheaper

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than ever before. The oceans, as well as Lake Erie, are alive and well, and food supplies grow ever more abundant. Unfortunately, so does Ehrlich's rhetoric, which in 1990 was repackaged in a new book entitled *The Population Explosion.*

Paul Valéry once wrote: "The main trouble with the world today is that the future is not what it used to be." Perhaps Paul Ehrlich is thinking the same thing.

It is a tragedy for the reputation of science when scientific credentials are abused in such a manner. Good scientists do not claim to know anything with absolute certainty. Therefore, one must be wary upon hearing a so-called expert assert that there is no longer any question or debate over a phenomenon that has received only recent attention. All scientific *truth* is provisional. A particular theory may be well supported or perhaps certainly true, but it is still subject to falsification. Of course, presenting all material as provisional is usually avoided; if one is constantly inserting disclaimers, a clumsy presentation results. However, this provisional circumstance certainly does not mean that all different scientific viewpoints are equally valid. According to Dartmouth College Astronomy Professor James Thorstensen, there is "good science, bad science, and crackpot science":

> Crackpot science is generally not even internally consistent, and generally makes no useful predictions at all; it is the result of a surprisingly common mental state in which extreme eccentricity shades into a deluded belief in one's own extraordinary genius. Bad science is more respectable, and may even be correct, but it is marred by such things as weak lines of evidence and ill-directed, woolly-minded theorizing. Good science is marked by good evidence, a good understanding of what has come before, technical competence, clear thinking, clean interpretation, and often by the unification of a variety of seemingly separate phenomena.[6]

In order to determine good science, people would do well to ask the following questions:

- Is it "good evidence" when computer models, used to measure climate fluctuations rely on assumptions and simplifications that do not adequately account for the influence of clouds and oceans? These can be tremendously misleading since they are based on data from weather stations that are located near growing cities.[7]
- Is it "a good understanding of what has come before" when a demographer proclaims that civilization will come to a halt due to scarcity of a certain resource? Yet history shows us that resource shortages have existed as long as civilization, and never has a nation fallen due to the depletion of a resource.[8]
- Is it "technical competence" when a pediatrician is considered an authority on nuclear power, a butterfly specialist is an expert on population growth, and an actress gives congressional testimony on an allegedly carcinogenic growth hormone?
- Is it "clear thinking" when a leading proponent of the theory that CFCs are depleting the ozone says, "[W]e have to offer up scary scenarios, make simplified, dramatic statements, and make little mention of any doubts we may have. Each of us has to decide what the right balance is between being effective and being honest?"[9]
- Is it "clean interpretation" when a global warming advocate argues in a congressional hearing that a warming trend of a half a degree Centigrade over the course of the past century was caused by human-induced carbon emissions, and his evidence shows that the most significant climate change took place before most industrial greenhouse gases entered the atmosphere, not to mention before the big boom of the automobile industry?[10]

Indeed, there is a lot of unsound science being promoted by false prophets. Jonathan Schell, author of *Our Fragile Earth,* once stated: "[T]he reputation of scientific prediction needs to be enhanced. But that can happen, paradoxically, only if scientists disavow the certainty and precision that they normally insist on. Above all, we need to learn to act decisively to forestall predicted perils, even while knowing that they may

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never materialize. We must take action, in a manner of speaking, to preserve our ignorance. There are perils that we can be certain of avoiding only at the cost of never knowing with certainty that they were real."[11]

Science by Press Release

Perhaps most disturbing is a trend that became popular during the 1980s known as "science by press release." The situation had gotten so bad that in 1992 the National Academy of Sciences issued a report demanding that scientists refrain from "questionable research practices," such as presenting conjectures as fact, and releasing results of studies to the popular press before such research has been peer-reviewed and judged valid.[12]

This assault on common sense, on rationality, and on the integrity of science could not occur without some ulterior motive. Obviously, it has a great deal to do with political ideology. It is very common for the apocalypse boosters to be very hostile towards capitalism while openly embracing socialism. They feel that the threat of an impending ecological crisis is so great that lifestyles must be radically altered with governments seizing control of private property and natural resources, individual liberties and freedoms being sacrificed, and reducing standards of living. For a movement that thrives off the motto "small is beautiful," it seems to require a large regulatory apparatus.

Here is another area where people have failed to learn from history. Socialism has proven disastrous for the environments of Eastern Europe and the Soviet Union. People should realize by now that natural resources do not fare better in government hands than they do under private control. Furthermore, in the absence of a free press and democratic government, facts about pollution are hidden from the public, and without property rights, government-owned enterprises can contaminate the environment while paying no attention to citizen outrage. Political and economic freedom, not heavy-handed government control, remains the best way to ensure a clean environment, but many have failed to make this connection. Some are still willing to take the risks of experimenting with centrally planned, command-from-the-top economics while completely ignoring the devastating consequences of such actions. Pre-eminent capitalist Malcolm Forbes once observed, "Edison invented the light bulb on, roughly, his *ten-thousandth* attempt. If we had depended on central planners to direct his experiments, we would all be sitting around in the dark today."[13] It is not enough to point out the follies of the professional doomsayers; an alternative strategy must be articulated. This includes not only a sound understanding of science, but of economics and politics as well. Only when more members of the scientific community come out of the closet to challenge public misinformation will more people come to realize what is at stake in this debate. □

1. Ben Bolch and Harold Lyons, *Apocalypse Not: Science, Economics, and Environmentalism* (Washington, D.C.: Cato Institute, 1993), p. vii.
2. Sharon Begley, "Is the Ozone Hole in Our Heads?" *Newsweek*, October 11, 1993, p. 71.
3. Patrick Michaels, *Sound and Fury: The Science and Politics of Global Warming* (Washington, D.C.: Cato Institute, 1992).
4. Begley.
5. A 1990 Gallup poll revealed that 52 percent of Americans believed in astrology, 46 percent in ESP, 59 percent in clairvoyance, 67 percent in personal experience with psychic phenomena, and 42 percent in communication with the dead.
6. James Thorstensen, Astronomy 2: "Stars and Their Life Histories," Dartmouth College, Fall 1993, p. 25 of lecture notes.
7. Robert C. Balling, Jr., *The Heated Debate: Greenhouse Predictions Versus Climate Reality* (San Francisco: Pacific Research Institute for Public Policy, 1992), pp. 33–46.
8. Charles Maurice and Charles W. Smithson, *The Doomsday Myth: 10,000 Years of Economic Crises* (Stanford, Cal.: Hoover Institution Press, 1984).
9. Stephen Schneider, quoted in Dixy Lee Ray's, *Trashing the Planet: How Science Can Help Us Deal with Acid Rain, Depletion of the Ozone, and Nuclear Waste (Among Other Things)* (Washington, D.C.: Regnery Gateway, 1990), p. 167.
10. Goddard Institute for Space Studies meteorologist James Hansen testified before Congress in June 1988 that he had detected a worldwide warming of approximately 1F since 1880.
11. Jonathan Schell, "Our Fragile Earth," *Discover*, October 1987:47.
12. Ronald Bailey, *Eco-Scam: The False Prophets of Ecological Apocalypse* (New York: St. Martin's Press, 1993), p. 21.
13. Malcolm Forbes, "Three Cheers for Capitalism," *Imprimis*, August 1993, p. 4

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A Crisis in the Making: Europe's Welfare Burden

by Nicholas Elliott

Europe's welfare states face a profound crisis because aging populations mean growing numbers of benefit recipients and dwindling numbers of taxpayers to fund the entitlements.

Prolonged recession has highlighted these dangers as high unemployment has meant higher welfare payouts and reduced tax revenues. As a result, wide budget deficits have developed in most countries of Europe, and there has been a sharp build-up of debt.[1]

This has awakened the governments of some European nations to the fact that maintaining "cradle-to-grave" welfare states is impossible in the long term, and reforms are already being undertaken to limit eligibility to benefits. As privatization was partly a response to the inefficiency of industry in the 1970s, so welfare reform is being forced by inexorable demographic strains. In years ahead, economic growth rates in the countries of Europe are likely to depend heavily upon their differing welfare burdens.

Comprehensive welfare states have become standard across Western Europe since 1945, providing—variously—unemployment benefits, sick pay, disability benefits, maternity benefits, child care, health care, and pensions. In the early stages it appeared affordable to extend these benefits, paid for by young taxpaying populations.

However, there was always a fine line. Sweden illustrates the economic consequences of unrestrained welfarism. From 1960 to 1990, as an extensive welfare state was erected, government spending grew from 31 percent of Gross National Product to 60 percent. But the increase in taxes required to pay for this blunted incentives disastrously. For instance, because of higher taxes, real after-tax wages for Swedish industrial workers fell 0.6 percent from 1980 to 1987 despite a 72 percent increase in gross wages.[2]

As a result, Sweden has tumbled from being the third wealthiest in 1970 to 12th place among rich countries, reflecting an average growth of only 1.1 percent in the past 20 years. The government of Carl Bildt was elected in 1991 with a program of welfare reform to restore the economy.

Pensions and Aging

The largest spending increases in welfare states have been on pensions, and without reform the future costs are potentially explosive. Only about a quarter of the increase in pension spending among Organization for Economic Co-Operation and Development (OECD) countries between 1960 and 1984 was due to aging populations; the rest resulted from widened entitlements and larger

Mr. Elliott is a financial journalist in London, England.

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benefits.[3] Because such a major aging is now underway, this largess will have to be reversed.

Greater longevity means that by the middle of the next century there will be 190 million over-65s in the OECD, up from 61 million in 1960. The disparity this will cause between earners and pensioners is highlighted by the age-dependency ratio, which shows the number of over-65s in proportion to 15–64 year-olds. This is set to rise from 19 percent in 1990 to 28 percent by 2020 and 37 percent by 2040.[4]

To give some individual examples, the over-60s made up 11.75 percent of the British population in 1961, but that's expected to rise to 22.44 percent by 2011 and 26 percent in 2026. At the same time, the proportion of 15–64 year-olds—roughly speaking those of working age—is forecast to drop from 65.3 percent in 1990 to 62.3 percent by 2026.[5] Similarly, in Germany the proportion of 15–64 year-olds is forecast to fall from 69 percent of the population in 1990 to 67 percent in 2011 and to 64.5 percent in 2023, while the portion of over-65s is projected to increase from 14.94 percent in 1990 to 20 percent in 2011 and 23 percent in 2023.[6]

The fiscal stress of this aging will be exacerbated by some pension schemes reaching maturity—paying out the maximum benefits—around the time that the number of pensioners peaks. When pension funds are first established there are many contributors and few claimants, but as time goes on there are fewer payers and more recipients. For example, Britain's State Earnings Related Pension Scheme (SERPS) will mature in 2020.

Many government schemes are unfunded; they are simple transfers from the young to the old. Whereas funded schemes can be managed with a view to future liabilities, unfunded schemes are laid bare to the ravages of demographic swings.

Also, older people make greater demands on health care, which adds to government spending where the system is publicly operated. For example, the over-75s cost Britain's National Health Service nine times as much each year as 16–64 year-olds.[7]

The Necessity of Reform

There is a crisis in the making across Europe, to which most governments are now alert. The extent of their reforms now—consisting principally of reducing government entitlements and encouraging private provision—will be a key determinant of economic growth in years to come.

Several countries have raised the age at which government pensions are paid. The British government recently announced that the pensionable age for women, currently 60 years, will be raised to 65, equal to that of men. The Italian government plans to raise the pensionable age from 60 years to 65. Bildt's government in Sweden intends to raise it from the current 60 years to 61. In France the government plans to lengthen the period over which contributions must be made to qualify for a full pension. Outside Europe, Japan's pension age for women will be raised in the year 2000 from the present 60 years to 65, equal to that of men. The U.S. government took a similar step in 1983, scheduling a gradual increase in the pension age, from 65 to 67 years, beginning in the year 2003.

Another move has been to encourage opting-out of government pensions into private plans. The British government did this with SERPS in 1988, prompting 4.5 million to exit the government scheme. This shrinkage in membership of the government scheme should greatly curb any increased costs to the taxpayer arising from its maturing.

The most significant reform is to update pensions with prices rather than incomes, as earnings typically outpace prices over time. The U.K. did this in 1980, and France did so in 1984. A British government actuarial report estimates that tax rates would have to be eight percentage points higher by 2030 if pensions had continued to be linked to earnings rather than prices.[8]

Differences in welfare burdens and in the rigor of reforms among the countries of Europe are already being reflected in their respective economies. Despite the demographic trends described above, Britain is in a relatively good position; her reforms will

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contain future costs. Also because much of the aging of her population has already occurred, the size of the emergent mismatch won't be as great as in other countries. The age dependency ratio is set to rise by 31 percent in Britain by 2040, as compared with 66 percent in the United States and 73 percent in Germany.[9]

By contrast, Germany's welfare costs are potentially explosive, with the admittance of new claimants from the former East Germany, placing further strains on a system that was already bloated.

German government pensions are linked to earnings and the retirement age—58 years—is relatively low. Proposals to reform a sprawling system of welfare benefits are already meeting with vociferous protest: 100,000 building workers recently converged on Bonn to object to plans to curb payments for being left idle by bad weather. The government may raise the pensionable age, but at the same time it is planning to extend government nursing care.

Welfare costs are recouped in Germany through taxes on employers and employee earnings, not through general taxation as in Britain. As a result of higher welfare spending, these costs are expected to reach 40.2 percent of wages next year, up from 26.5 percent in 1970.[10] With such a burden it's not surprising that 36 percent of western German industries are planning to relocate investment abroad in the next three years.[11]

In the short term a welfare state may be an affordable luxury for a wealthy and prospering country, but in some European countries wealth and growth have been dissipated by the taxation needed to pay for it. Maintaining a welfare state is not simply a question of producing the wealth and then redistributing it, because the process of redistribution itself hinders wealth creation. The extent to which this point is understood will determine whether or not Europe remains a rich continent. It's an open question whether welfare reform will be far-reaching enough to restore economic incentives. Otherwise some European countries risk becoming economic backwaters. □

1. See S. G. Warburg Securities, *Weekly International Bond Market Review*, November 25, 1993.
2. Peter Stein, "Sweden: From Capitalist Success to Welfare-State Sclerosis," *Policy Analysis*, Cato Institute, September 10, 1991.
3. Organization of Co-Operation and Development, "Reforming Public Pensions," OECD, Paris, 1988.
4. *Financial Times*, October 25, 1993.
5. Office of Population and Census Studies.
6. Federal Statistics Office.
7. Paul Johnson and Jane Falkingham, *Aging and Economic Welfare* (London: Sage Publications Ltd., 1992), p. 133.
8. Cited in Johnson and Falkingham, *op. cit.*, p. 142.
9. *The Sunday Telegraph*, November 28, 1993.
10. *Financial Times*, November 19, 1993.
11. Cited in Gerard Lyons, *The Outlook for the European Economies and Financial Markets in 1994*, DKB International, November 1993.

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by Faustino Ballvé

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THE FREEMAN
IDEAS ON LIBERTY

Are Women Exploited By the Free Market?

by John Chodes

The recently enacted Federal Civil Rights Bill once again tossed out one of the political hot potatoes of the 1990s: the issue of "equal pay for equal work." Many of the Congressmen who voted for this legislation believe that America's free market economy has always exploited women. They say that the only way for women to earn the same amount as men for the same or similar job is to enforce more far-reaching regulations to equalize wages.

A careful study of American economic history shows that such measures are not warranted. Beginning with the early 1800s, when wages and working conditions were completely uncontrolled, the free market was the one force that liberated women, via economic independence and merit wage parity.

Women, the First Wage Earners

For the first fifty years of the American Industrial Revolution (1800-1850), women were the major factor in the workplace. Mostly, men worked the land. Women were not as productive in agriculture, where physical strength was a prime necessity. Women flocked to the mills where they participated in a radical process: weekly pay based on an hourly scale. This was unheard-of in farming. Women in industry could earn twice as much as they could in agricultural work.[1]

In a periodic survey taken in the major mill town of Lancaster, Massachusetts, in 1818, 88 percent of the factory operatives were women. In 1825, it was 83 percent. In 1833, 85 percent. Studies for other locations present a similar picture.[2]

Today there is a popular misconception that women's vocational opportunities in that era were far more restricted than men's. One standard source says that in the 1830s only seven occupations were open to women: teaching, needlecraft, keeping boarders, work in cotton mills, typesetting, bookbinding, and domestic service.[3] Yet the U.S. Census showed that in reality there were over 100 industrial classifications employing women, virtually all those that were available to men.[4]

Women Advance in Free Markets

In the second half of the nineteenth century there was a rapid transformation of the industrial workplace. The overall percentage of women in industry markedly declined. This did not signify discrimination but rather major social changes that propelled women into the highest paying posi-

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tions and into the new fields of employment that were being created.

Immigration was the main social change. Male workers (Irish, French Canadians, Armenians, Portuguese, Poles) took the place of the early cotton mill girls. By 1900 only 8 percent of the population of Lowell, Massachusetts (one of the great mill towns) was native American.[5] These men worked in most of the lower skilled, lower paying jobs in the cotton mills. Of the male and female operatives in Massachusetts, 95 percent were foreign or of foreign parentage.[6]

In the cotton industry between 1850 and 1905 the percentage of women had dropped from 64 percent to 47 percent.[7] Yet women still dominated the two most lucrative textile jobs: weavers and frame spinners. Even in 1905 there were far more women than men employed in these high-paying categories.[8]

Labor legislation was another major factor in reducing women's numbers in the workplace. Labor laws condemned tenement work, resulting in a decrease of women in the clothing trades, from 40.1 percent in 1888 to 25.3 percent in 1900. This denied women with small children the opportunity to earn money without neglecting family responsibilities.[9]

Labor laws also restricted women's ability to work at night, reducing their presence in higher paying, late-shift factory employment.

The spread of unionization further curtailed women's options. Many union shops excluded them because they were less likely to be lifelong dues-paying members. Women moved in and out of the labor market in response to fluctuating personal needs.

Yet the decline of women in industrial employment also reflected widening opportunities outside the factories. After 1850 the number of women teachers, in Massachusetts for example, was twice that of men. The Civil War drew huge numbers of women into nursing, clerical work, and higher education. Then came the lure of the West, where greater possibilities and a shortage of skilled help drove their wages up.

By 1900 women were in 195 of the 303 employment classifications enumerated by the Census, including such male strongholds as carpenters, blacksmiths, quarrymen, plasterers, well-borers, and coal, gold, and silver miners.[10]

The Free Market Liberated Women

Nineteenth-century lawmakers complained that "women are made immoral by the factory system." This disguised the real issue: Industrialization revolutionized women's place in society by making them financially independent.

Back then immorality was defined differently from the way it is today. Children were considered "immoral" if they were "no longer contented with 'plain food' but must have 'dainties'."[11] One clergyman "deplored the tendency of girls to buy pretty clothes 'ready-made' from shops instead of making them themselves, as this practice unfitted them to become 'the mothers of children'."[12] Another example: "the pocket-book makers have high wages and are not compelled to keep hours. Hence they are often very dissipated'."[13] Or in the manufacture of bobbin lace, "[l]arge numbers of children and young people are employed. . . . They are almost wholly uneducated, and receive virtually no moral training. They also love fine clothes. These factors combine to lower their moral standards to such an extent that prostitituion is almost universal among them."[14]

The fear of "immorality" (or more accurately of women's self-determination), not the fear of exploitive wages, was the impulse behind regulation of the workplace from the beginning. Peter Gaskell, a nineteenth-century writer who denounced the free market economy, admitted that industrial wages "would enable them [the workers] to live comfortably, nay in comparative luxury." Yet he condemned the factories because children "were forced to spend their most impressionable years amid surroundings of the utmost immorality and degradation."[15]

The anxiety produced by the powerful implication of women as emancipated wage-earners was clearly expressed by Karl

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Marx's partner, Friedrich Engels. In the 1830s he said: "The fact that a married woman is working . . . [leads] to a reversal of the normal division of labor within the family. The wife is the breadwinner while the husband stays at home [when unemployed] to look after the children and do the cleaning and cooking . . . . It deprives the husband of his manhood and the wife of all womanly qualities." Sound familiar?[16]

Britain's Lord Ashley provided another example. In a speech to the House of Commons in 1844, he told the story of an unemployed father who rebuked his working daughters for frequenting a pub. They "turned on him, saying that they no longer recognized his authority: 'Damn you, we have you to keep!' They said they were entitled to spend at least a part of their earnings as they pleased."[17]

Women factory operatives in the early industrial period were ambitious and venturesome. Most had come with a specific objective in mind. Mill work was a radical concept then. They came into this new world with a confidence that they could make it on their own.

An 1840 study of 6,320 women in the mills of Lowell, Massachusetts, showed that 87 percent were from outside the state. This was no small matter at a time when travel was extremely difficult.[18]

The women's goals were both financial and educational. "The earnings of daughters have been scrupulously hoarded to enable them to pay off mortgages on the paternal farm,"[19] noted one industrialist. Lucy Larcom, a poet and writer for the "Lowell Offering," a magazine for and by women industrial operatives, noted that "for 20 years or more, Lowell might have been looked upon as a rather select school for young people. The girls there were just such girls as are knocking at the doors of the young women's colleges today. They came to work with their hands but that could not hinder the workings of their minds also. Some were able to attend such schools as the Bradford Academy half the year by working in the mills the other half."[20]

These ambitious young women did not stay long in the mills. They worked for a year or two, then went back home or to school to take up work as teachers, missionaries, and other occupations.

Lucy Larcom (1824–1893)

Women's Wages Rivaled Men's

The classic Congressional study known as the Aldrich Report clearly demonstrates that the free market did not discriminate against women in terms of wage parity.

This voluminous 1893 survey documented both sexes' earnings in the same departments, doing the same jobs, in the same business at the same time. The years covered are 1851 to 1891. Salaries between the sexes fluctuated widely, based on factors not explicit in the numbers, such as experience and productivity, which are not related to gender.

The statistics are organized in a uniform pattern. All the employees in a given department are divided into an ascending scale by wage level. For instance, in July 1890

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Sewing room at A. T. Stewart's department store, New York, 1875.

there were seven press feeders in "Establishment #6" (not named) in New York City. This company was part of the "Books and Newspaper" industry. One woman there made 41.5 cents per day. One man made 66.5 cents a day. Five women earned 83 cents per day.[21] (Don't be misled by a century of inflation. These were relatively high wages. A good four-room apartment in New York rented for $4 a month, well within the means of the top five women.)

The study as a whole confirms that the distribution of wages was not discriminatory. In any given job, men were just as likely as women to be the lowest or highest wage earners. There is no pattern of "bunching up" of women at the low end, with only an exceptional woman at the top. Skill and ability, not gender, were evidently the only considerations for wage levels.

The following examples are typical:

Woolen goods, Connecticut, Establishment #86. "Weavers." Men and women worked together for 33 years.

- One or more women were the highest wage earners for 11 of these years. But more significantly, as this department grew in size, women's leadership in earnings increased dramatically.

Thus:

- Between 1858 and 1875 this department averaged 31 people. One or more women were the highest wage earners twice.
- Between 1876 and 1891 the weaving department expanded to an average of 111 employees. In this period one or more women were the highest wage earners nine times.[22]

Books and Newspapers, New York, Establishment #5. "Press Room Hands."

The following two positions we tend to associate with men today. This was not so in

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the 1800s. In the first case there was co-employment (men and women together) for 34 years (1857-1891).

• One or more women were the highest wage earners in two of these years and the second highest for another six.[23]

Books and Newspapers, New York, Establishment #6. "Press Feeders."

Co-employment for 22 years, between 1867 and 1891.

• One or more women were the highest wage earners in 19 of these years.[24]

Woolen goods, Rhode Island, Establishment #88. "Handers-In."

From 1881 to 1891 women and men worked together. Both sexes earned exactly the same amount throughout this period.[25]

Woolen goods, Massachusetts, Establishment #87. "Card Tenders."

Co-employment for 30 of the years, 1859-1891.

• One or more women were the highest wage earners in 15 of these years.[26]

Cotton goods, Massachusetts, Establishment #40.

The textile industry was the largest employer of women in the nineteenth century. In this company women worked with men in several categories:

"Back-Hands." Co-employment for 31 years. One or more women were the highest wage earners in 24 of these years.

"Cloth-Room Hands." Co-employment for 39 years. One or more women were the highest wage earners for 19 years.

"Harness Hands." Co-employment for 29 years. One or more women were the highest wage earners for 24 years.

"Spinners." Co-employment for 15 years. One or more women were the highest wage earners for seven years.

"Spoolers." Co-employment for 22 years. One or more women were the highest wage earners in 11 of those years.[27]

Relative teachers' salaries, Massachusetts, 1840-1891.

In Barnsdale County: For 15 years women's salaries were higher than men's, and they earned more in 12 of the 15 years, 1876-1891.

• In Franklin County: For 25 years women's salaries were higher than men's and from 1868 to 1891 they earned more in 20 of the 23 years.[28]

Misleading Statistics About Women

Where do we get our ideas that women were exploited by the free market? Often from biased research. Even at the height of the golden era of our relatively unregulated economy, statistics were geared toward proving wage discrimination to justify state intervention.

For instance, then as now, many jobs with the same title which both men and women performed, were not comparable. Nineteenth-century opponents of the free market often compared home employment with factory wages to "prove" that women made less for the same work. Home pay was generally based on a piece-work scale and almost always was lower than factory pay, regardless of who did it. In the 1800s, home workers often had titles similar to those of on-site employees on company payroll records. This gave the impression that women's wages were half those of men doing the same job.[29]

Another example is the shoe-and-boot industry which fully automated 75 years after textiles. During this period much of the shoe assembly process was done at home. An "Upper Cutter" or an "Upper Stitcher" or "Binder" or "Trimmer" described functions that could be fulfilled at either a factory or home workplace. Until full automation, shoe-and-boot industry wages were substantially lower than for cotton mill employees. "Reformers" often used shoe-and-boot wage scales and projected them as indicative of women's wages overall. This made them appear far less than they actually were.[30]

Politicians frequently use Census data to justify their legislation. The 1870 Census is a classic example. This was an era when American industry was expanding enormously, as was the drive to control it. It was during the post-Civil War Reconstruction period, with its infamous carpetbaggers and national corruption. Census data followed

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Shop girls in New York. This illustration was part of an 1880 **Harper's** *feature on "Working Women in New York."*

these dishonest trends. General Walker, the military head of the supposed civil Census, confessed that the data was also inaccurate as it related to women and work. Was it error or policy?

"It is well known that as far as the employment of women and children is concerned, the occupational tables are less complete than the manufacturing tables . . . . It is taken for granted that every man has an occupation and rarely have assistant marshals failed to ask and obtain the occupation of men and boys old enough to work with effect. It is precisely the other way with women and young children. The assumption is, as the fact generally is, they are not engaged in remunerative employments. [This contradicts data from previous Census findings] . . . it follows from the plain principle of human nature, that assistant marshalls will not infrequently forget or neglect to ask the question."[31]

Conclusion

American women have been a major factor in the rise of American industry. Their presence in the workplace revolutionized our society and made it freer. Women were not exploited by the free market. Contemporary equal pay for equal work legislation is based on historically misleading information, and for that reason it cannot lead to greater economic emancipation for women. It is dangerous to lovers of freedom and will lead to federal control over all aspects of private employment: hiring and firing, raises and promotions. All the functions of management will be transferred to government. The only equality this will produce is the equal entrapment of men and women. □

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12. *Ibid.*, p. 171.
13. *Ibid.*, p. 172.
14. Friedrich Engels, "The Condition of the Working Class in England" (New York: Macmillan and Co., 1958), p. 218.
15. Hutt in Hayek, p. 158.
16. Engels, pp. 162 and 164.
17. *Ibid.*, p. 165.
18. Abbott, p. 43.
19. Friends of Domestic Industry, "Address and Proceedings of the Convention of the Friends of Domestic Industry" (Baltimore, 1831), p. 110.
20. Lucy Larcom, *New England Girlhood* (Boston: Houghton, Mifflin and Co., 1889), p. 256.
21. United States Senate Reports, Committee on Finance. Report of Mr. Aldrich, "Wholesale Prices, Wages and Transportation," Vol. 3, Second Session of the 52nd Congress (Washington, D.C.: U.S. Government Printing Office, 1893), p. 386–388.
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23. *Ibid.*, pp. 371–375.
24. *Ibid.*, pp. 386–388.
25. *Ibid.*, pp. 1533-1534.
26. *Ibid.*, pp. 1497-1500.
27. *Ibid.*, pp. 708–833.
28. *Ibid.*, pp. 966–967.
29. Abbott, pp. 148–185.
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31. United States, Census Bureau, "Ninth Census: Industry and Wealth" (Washington, D.C.: U.S. Government Printing Office, 1871), p. 801.

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THE FREEMAN
IDEAS ON LIBERTY

Singing the Ticket Scalping Blues

by David N. Laband

New York Attorney General G. Oliver Koppell filed suit recently against two New Jersey ticket brokers for allegedly scalping tickets to a Barbra Streisand concert. In New York, it is illegal to resell tickets for more than 110 percent of their face value. As reported in my hometown newspaper, Mr. Koppell said the brokers "charged $325 each for two tickets worth $125 apiece." Last year country and western superstar Garth Brooks urged a legislative committee in Tennessee to make ticket scalping illegal in that state. Currently, ticket scalping is illegal in 12 states.

Clearly, Mr. Koppell's statement is incorrect: It would be impossible to sell tickets *worth* $125 each for a price of $325 each. Language aside, the anti-scalping stance adopted by Messrs. Koppell and Brooks and a significant number of state legislatures reveals a stunning ignorance of the fundamental role that prices play with respect to allocating scarce commodities.

People Who "Need" Tickets

The selling price of any commodity automatically divides the potential consuming public into two groups: individuals who value the item highly enough to be willing to pay the price required to obtain it and those who do not value the item highly enough to be willing to pay the acquisition price. In economic jargon, prices are *allocatively efficient*. Assuming no government intervention, goods and services—including concert tickets—are automatically allocated via prices to those individuals who value them the most highly, because they are willing to pay the most to obtain them.

The heart-rending response from supporters of anti-scalping legislation is that allocation by price is not "fair," since poor people cannot afford to pay high prices for commodities even though they might value them highly. This argument is demonstrably wrong. The mere fact that a resale market emerges for tickets to concerts, athletic events, and the like indicates that the face value (or retail price) of the tickets is *below* the market-clearing price.

Whenever a concert, for example, is a "sellout" before exhausting the number of demanders of tickets, it should be clear that there is a shortage of tickets at the retail price. This *must* mean that certain individuals who place a greater value on the show than the money price of the tickets will not get to see the performance. Individuals who are willing to pay a higher price for the tickets and who want to ensure that they will in fact receive tickets must be willing to pay a higher price, typically in the form of time spent waiting in line. Since poor people have a low opportunity cost of time, they are more likely to be the ones who receive

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tickets because the total (time + money) cost of the tickets is lower to them than to rich people.

Consider the allocative effect on poor people of prohibiting resale of concert tickets. Smith can earn $5 per hour; if he works 40 hours per week, 50 weeks per year, his annual income is $10,000. Jones can earn $50 per hour; under the same assumptions about work effort, her annual income is $100,000. Garth Brooks comes to town in concert. Tickets are priced at $25 each. Smith values the opportunity to attend the concert at $80; Jones values that opportunity at $480. Both individuals forecast that the concert will be a sellout and that in order to actually obtain tickets, an individual will have to spend the equivalent of ten hours waiting in line.

Even though the value that Jones attaches to attending the concert is six times greater than the value Smith places on the concert, she does not bump into Smith in the ticket line. She is not there. Under the circumstances outlined, Smith will find it worthwhile to wait in line for tickets while Jones will not. Smith values attending the concert ($80) at more than the real price he must pay for the ticket (ten hours in line times $5 per hour, plus the $25 nominal ticket price equals $75). By contrast, the real cost to Jones (ten hours in line times $50 per hour, plus the $25 ticket price equals $525) exceeds the value she places on attending the concert.

If resale of tickets is illegal Smith attends Garth Brooks' concert, even though he attaches a total value to it that is less than Jones' total valuation ($80 < $480) and even though the net-of-cost value to him is lower than it is to her ($5 < $45). If resale is legal, however, both parties will be happier.

Jones is willing to pay far more than $25 for a ticket, provided she does not have to wait in line. She is potentially willing to pay up to $480 for a ticket. Smith, whose procurement cost of a ticket is $75, would part with it for any price greater than $80, because the value of the money received would then exceed the value he attaches to attending the concert. Indeed, he would part with the ticket for less than $80, because the time he would have spent attending the concert is valuable too. If Smith, scalawag scalper that he is, offers to sell the ticket to Jones for $225, she is ecstatic. The net-of-cost value to Jones of attending the concert has, through Smith's offer, been altered from a negative $45 to a *positive* $255. When she agrees to the exchange, Jones is ecstatic also. He has earned four times as much per hour as he does in his ordinary employment. In so doing, he has provided a valuable service to Jones.

The argument generalizes to concerts and other events that do not sell out. Certain seats are valued more highly than others. Whenever individuals are prohibited from buying tickets in a resale market (i.e., from scalpers), some individuals who value those good seats more than the current ticketholders simply do not attend.

The number of items sold through resale in America each year utterly swamps the number of items sold new. Land, houses, airplanes, clothing, artwork, stamps, guns, and a myriad of other items change ownership each year. To apply consistently the principle of "no scalping," we should make it illegal for individuals to sell any of these other commodities at prices greater than what they paid originally. This would be simply absurd. Such a restriction would eliminate any incentive for individuals to shift their supply of commodities intertemporally. Owners would have no reason to conserve goods and resources today to ensure future availability.

Although it may *look* as though scalpers buy tickets at low prices and immediately turn around and sell them at much higher prices, the perception is misleading. What is really being sold in the resale market is time. If Garth Brooks would truly like to maximize the value that people receive from attending his concerts, he should be testifying *against* proposed anti-scalping bills. And, unless I'm much mistaken, state legislators and attorneys general have more pressing issues to address than the mucking up of resale markets that increase society's well-being. □

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THE FREEMAN
IDEAS ON LIBERTY

Transitting Away from The Free Market

by Robert A. Condry

In November 1990 Congress passed the Treasury, Postal Service and General Government Appropriations Act of 1991, one aspect of which allowed federal agencies to participate in local efforts to promote mass transit. Translation: Federal agencies could provide financial incentives for their employees to ride the local trains and buses. So what? Well, it's just another example of a government spending splurge in search of an issue.

In a recent report the General Accounting Office (GAO) estimated that in 1993 the federal government would spend between $8 million and $10 million on transit benefits. Now, it's true that none of this money was actually appropriated for that purpose, which might irritate some taxpayers the more, but was to be taken from existing funds. There are those who will say that this is a net benefit for the taxpayer because that much money is not being spent regulating or otherwise interrupting the lives of the innocent. This is true to a point, but the taxed should not rest easy just yet.

What the law authorized the feds to do was use the same funds—available to businesses as tax deductions but to the government as equal subsidies—to help subsidize their employees riding the mass transit lines. Beginning in July 1991 the tax-free benefit was $21 per month, but on January 1, 1993, the figure was raised to $60 per month. The GAO surveyed certain federal agencies in the 25 largest metropolitan areas (those with the worst traffic and air pollution) to see what effect the ability to make use of these subsidies had on federal employee participation in mass transit.

Surprisingly, some agencies did not participate, citing a lack of funds. (Surprising because it is usually the federal habit to force all of its minions to get with the program of the month. Maybe they didn't understand the law.) Others participated to varying degrees—some offering the $60-per month bribe while others stuck with the $21 figure. But, notwithstanding government size and propensity for keeping records, GAO was a tad put out that none of the agencies had any serious numbers to prove exactly what their level of participation was or what effect the subsidies had. Those that did participate took the funds to pay the benefits from the operating funds voted them by the Congress.

The usual reasons for pushing mass transit, preferably using the pocketbook of the taxpayer, are trotted out: It will reduce congestion and air pollution, and save energy. No one thinks to ask whether mass transit subsidies are the only, or even the best, way to do any of these things. It also never occurs to anyone to ask whether, if

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the subsidies have not had the desired effect on the private marketplace (and the GAO offers statistics which suggest that they have not), they ought to be extended to the federal civil service. Never mind the (hardly raised anymore) question of whether or not the people of Utah ought to have to subsidize the cleansing of New York City.

The fact is that the GAO has no idea whether the subsidies are having any effect or not. In a previous report last summer on the subject of automotive emissions, the GAO allowed as how there is no way to tell if the various programs in place to reduce emissions are making a dent in the problem. The results of surveys are too local, the conditions too variable, and the response to the programs too varied. Ditto with mass transit subsidies, though the GAO fails to recommend that the subsidies not be implemented until the facts are known. The agency will go so far as to say that the impact of the employer-based initiatives will not be known until such measures are "measured in conjunction with other measures." (Translation: We won't know whether government coercion works until all of the various methods have been tried.)

Confusion Reigns

But it may be that the answers are not available because they are not knowable. It may be that the GAO is simply saddled with a recalcitrant subject here: The results obtained from polls which measured the pulse of the affected federal workers found that confusion reigns. Those who do not use public transportation claim that it is too far from their home or that it would take too much time. But the surveys also show that ridership would increase if the subsidy were made available. It just goes to show you how much effect the unearned dollar can have.

The GAO claims that the subsidies and other TCMs (Transportation Control Measures—great government term) exist to "level the playing field" for public transportation. For evidence of this the GAO points to those in the survey who claim that they no longer ride in van or car pools since the subsidies became available. People who formerly relied on private mass transit have gone over to the government. Hmmmm: Paying people to leave the private transportation market, which puts the government (and its command of the taxpayer's pocketbook) in competition with private enterprise, is leveling the playing fields. Interesting concept.

It makes sense, and the surveys seem to bear out, that the poorer members of the work force would tend to value the subsidy more. Ridership falls off as income increases, with $25,000 annually the apparent cut off. But this raises a point that the GAO was careful to skip around in its report: Those Americans who can (and it is largely a financial decision) prefer to drive their own cars, everything else being equal. Notice also that mass transit cannot compete for the attention of the commuting public (where there is a choice) without the assistance of the public purse (taxpayer subsidies) to "level the playing field."

There are also those for whom the mass transit systems simply don't work. The polls stated that a huge percentage of federal users of mass transit said that it was very close to their workplace. This would stand to reason since government offices tend to be located in city centers—particularly in Washington, D.C.—the areas mass transit was designed to serve in the first place. But for the commuter going to a workplace in the private sector, the use of mass transit will become increasingly difficult as companies locate away from the troubled cities. It is frequently impossible, and this is true in the Washington area, to get to one suburb from the other on the trains without going to the city first.

But 60 percent of all federal workers surveyed said that they would not ride the mass transit even if the subsidy were offered them. Here is the best evidence there is, after the fact that the playing field has to be leveled by the government on behalf of mass transit, that most Americans prefer the independence of their automobiles. More: Total transit miles have increased while the mass transit ridership fell from 3 percent to

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2 percent of the population, according to the Department of Transportation. We are not seeing a groundswell of support for mass transit, even with people being paid to ride it. The Department of Transportation does predict that highway traffic will increase by 65 percent in the next 20 years (more cause for alarm), but it is unclear where they got this number, or what it should mean. The population is not growing very fast any more, and it is aging, suggesting that the number of highway miles might level off or decrease, and that fewer of the miles being traveled will be commuter-type miles that would lend themselves to mass transit. But more importantly, the GAO and DOT seem to be suggesting that the cure for this woe is to step up the subsidy program in hopes of keeping some of those swarms off the road. Are we to conclude that even though the program is having no measurable impact now, it will have when there are more people available to ignore it?

But never mind: The subsidies are in effect anyway, and the GAO estimates that they will cost the aforementioned $8 million to $10 million in 1993 for the federal government's employees alone. It also estimates that it might cost as much as $720 million to subsidize all those in the federal government who might ride the trains. Someone should ask whether fighting the pollution and congestion are worth that kind of spending, particularly when we are being told on all sides that we are in the midst of a financial crisis. And, once more, with feeling: Why spend it if it is not clear that it has any impact?

The facts are: we cannot deduce a linear progression of city-centered, commuter traffic growth over the next 20 years; the government is not necessarily the best organ for determining how best to cope with the problem that we have; the various TCMs in place now are not working and are unlikely to have a larger effect on a population 20 years from now; and the government will find cooperation on the part of commuters easier to come by when it stops trying to coerce them all out of their cars and begins to make it easier and less expensive for them to drive. □

THE FREEMAN
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What Is a Capitalist?

by Roger M. Clites

Not many years ago rabble-rousers were able to ruin the career of almost anyone by labeling him a "communist." Now there are those who attempt to slander a person similarly by calling him a "capitalist." When we look at all the mischief done by self-proclaimed communists we can see that that term may have deserved to be considered derogatory, although we must admit it was often misapplied. When people use the term "capitalist" in a derogatory manner, however, we question whether they know what a capitalist really is.

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The first tangible act of a capitalist must be self-denial. In order to accumulate capital to save and invest, which is how one becomes a capitalist, one must first refrain from consuming a part of what one has produced and risk losing through his investment what he could have enjoyed at the time. Would those who label others "capitalist" defend their supposed ridicule by decrying the act of self-denial?

Another act of a capitalist is to provide capital goods, tools, and machines, for others to use in their work, so that those others may be more productive. Capitalists are sometimes accused of exploitation when they hire others to use their capital goods. But how are those others exploited if they prefer the employment offered them by the capitalist to any other alternative available? The capitalist did not force them to accept the employment he offered; they accepted it voluntarily in preference to anything they could develop on their own and in preference to anything else available. This is in direct contrast to what the communist or socialist does. In a controlled economy, where the factors of production, including labor, are allocated and forcefully directed by planners, exploitation really takes place.

A capitalist is one whose savings and investments make it possible for others to live above absolute poverty. Without capital with which to work, we would still be living in caves—if we were living at all—and wearing loincloths. Throughout much of history, poverty has been the condition of most of mankind, except for a few rulers who were the real exploiters of their fellow men. Even today poverty is the general condition of a large portion of the world's population. Only in those parts of the world where relative freedom made possible the accumulation of capital have the masses of people attained higher levels of material well-being. Only when and where people were allowed to keep the fruits of their labor to save and invest capital could economic progress take place.

Without the accumulation and application of capital to agriculture the enormous productivity of farmers in the United States could not have been attained. Without the accumulation and application of capital to increase productivity, child labor would still be as widespread in the United States as it is in India where child labor laws have failed to abolish it. Without capital today's women would not have been liberated from the household drudgery which enslaved women of past generations. Modern grocery stores and cookstoves have eliminated the need for spending a whole day at least once a week doing the family baking. Automatic washers and dryers have done away with backbreaking work of drawing water, scrubbing, boiling, and wringing out the family laundry. Wash-and-wear fabrics have substantially reduced the time and toil spent on ironing, first with flat irons that had to be heated again and again on a hot stove, and more recently with electric irons which reduced the toil substantially but fell far short of eliminating it.

We flip a switch instead of chopping wood to heat our homes. Even the equipment used to cut logs today represents a substantial improvement over earlier days. Arduous labor of many kinds has been done away with by the introduction of capital equipment, the use of computers, and the activities of capitalists. A list of the contributions of capitalists would be almost endless.

Sometimes the capitalist is painted as dooming workers to "dehumanizing" toil, monotonous, repetitive work. On the contrary, productivity is so much greater, even in routine work, that workers have far more leisure time to engage in pursuits other than grubbing for a living. Far from dehumanizing mankind, capitalism has enhanced the quality of life.

No matter how you consider the capitalist, he is not the evil person he is portrayed by many to be. Those who presume to malign him by labeling him a capitalist, which he is, should consider what that label really means. A capitalist begins by denying himself consumption he could have enjoyed, undertakes risk, transforms his savings into tools and machines that help to increase production, and so becomes a benefactor of man. □

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THE FREEMAN
IDEAS ON LIBERTY

FDA and the Market In Natural Medicine

by Stephanie Hiller

How much government intervention is appropriate in a free market has been the subject of lively debate for many years. This debate is characterized by the inconsistent demands people make on the State. In 1934, Walter Lippmann commented:

> The pure doctrine of non-intervention in production in trade has never, in fact, been practiced anywhere. One could argue plausibly that most men have shown in their behavior that they wished to impose free capitalism on others and to escape it themselves. Employers have believed in it for their employees, and have appealed to it against factory laws and unionism. But they have not hesitated to call upon the State for protection against foreign competitors.
>
> —*The Method of Freedom*

One way people have asked the State to intervene on their behalf is by seeking protection from the sale of dangerous foods and drugs. In 1931, after more than 100 people died from a poisonous solvent used to make the wonder drug sulfanilamide, the Food and Drug Administration came into existence, one of many new arms sprung forth on the body of expanding government. In 1938, despite intense lobbying against it by the pharmaceutical and food-processing industries, the FDA was fully empowered to protect the public against impure and unsafe foods, drugs, and cosmetics by the Food, Drug and Cosmetic Act. Since then, generations of America's children have been taught that consumer confidence in the purity of what it imbibes rests on the strong shoulders of its benevolent guardian, the FDA.

Sixty years later, new legislation was passed to clarify what health claims may be made on the labels of packaged foods. The FDA's proposed regulations for the labeling of health supplements created a tremendous stir. The new regulations threatened to choke the trade in herbs and vitamins. Intense protest by consumers as well as producers revealed that public perception of the FDA had changed. No longer some benevolent jolly green giant, the FDA appeared as the enemy of the public will. And while people protested, powerful interests in the more established medical world gave their unseen support.

Clearly the name of the game has changed. The establishment of government as the largest player in every market (and in every aspect of our society) has alienated the populace and fostered a public cynicism that threatens to undermine the very foundations of our society.

Hence the current move by the FDA is but one aspect of a deeply entrenched pattern in

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our society, and in that context, it raises old and troubling questions about the future of freedom in our nation.

Herbs and Vitamins Enter the Mainstream

Natural, or alternative, medicine has become a $14 billion a year business. Of this substantial sum, over $1 billion comes from the sale of herbs and vitamin supplements produced by American manufacturers, most of them small entrepreneurs who distribute their products through some 5,730 independent natural food stores and 1,598 chains. No longer a small group of off-beat counterculturalists and eccentric health faddists, patrons of such outlets include growing numbers of mainstream Americans who, daunted by the rising costs of conventional treatments, or troubled by their inefficacy in relieving chronic diseases, are seeking other ways to protect or restore their health.

Despite repeated attempts by the FDA to control this growing industry, the sale of herbs and vitamin supplements has remained largely unregulated. Classified as "foods" by the Proxmire Amendment of 1976, supplements could be sold over the counter provided their ingredients were listed on the label and no health claims were made. But when companies like Kellogg's began to claim that high-fiber cereals could prevent colon cancer, some form of regulation appeared to be necessary to allow valid health claims to be stated on the label. Hence the Nutritional Labeling Education Act (NLEA) was passed.

The FDA, the regulatory agency assigned to enforce the law, took this opportunity to clamp down emphatically on the widespread use of supplements and herbs. In its 500 pages of amendments to the legislation, the FDA placed severe limitations on the information that could be printed on their labels, arguing that their efficacy had not been sufficiently attested. But it went even further. The FDA asserted that vitamins in larger dosages than those found in ordinary foods, as well as all herbs not used for seasoning, could be reclassified as drugs. At the same time, it threw out the familiar RDA (recommended daily allowance), replacing it with a lower standard, the new RDI (recommended daily intake). In other words, a product containing more Vitamin C than the juice of one orange (some 75 milligrams) could now be classed as a drug, *available by prescription only*.

Reclassifying supplements as drugs would have a staggering effect on their availability. It costs over $200 million to get a drug approved by the FDA, a complicated process which can take up to ten years. Because herbs have been used traditionally for thousands of years, they cannot be copyrighted, hence profits from their sale would never be sufficient to cover the cost of approval. Drug regulations are so tough that most supplements are likely to disappear from the shelves, and thousands of small companies will be out of business.

Many people rely on the wide variety of substances hitherto available—ranging from the ordinary to the exotic, from garlic extract and rosemary oil to the Chinese astralagus and enzyme Co-Q10. People depend on the ancient gingko leaf to stave off senility; they use echinacea to recover from colds, and Vitamin E to reduce the risk of heart disease. The list is long. Exploring the new realm of herbs and supplements has enabled many patients to cope with chronic diseases like arthritis and lupus, which have not been treatable by more conventional means. Contact and the experience of taking responsibility for one's own health have become part of healing for many people who in the past had passively accepted whatever the doctor ordered. The consumer of natural medicines is typically educated and well-informed; reading the many informative new books about healing, consulting the various types of natural practitioners (chiropractors, naturopaths, herbalists, acupuncturists, and so on), and talking with friends and with salespeople at the health food stores has enabled her (or him) to discover treatments with a wide range of benefits and specific application to the individual's needs.

Hence the proposed regulations generated a flurry of letters exceeding those

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written in protest of the Vietnam War. Final approval of the FDA recommendations was accordingly delayed another year, until December 1993, in the hope perhaps that the furor would die down. It hasn't. Two new bills that would nullify the new regs were presented to the Congress and thousands more letters have been received. More than 200 representatives and 60 senators have indicated support for these bills. The Senate bill passed through committee this past summer. As of this writing, unless an industry plea for an extended moratorium is granted, implementation of the revised rules will begin.

In accord with its generic role of guardian of the public safety, the FDA has taken great pains to portray itself in the media as the benign protector of a public besieged with "pills and potions" touted as "cure-alls" by "quacks and charlatans." It claims to be merely doing its job, and on the surface, its presentation is convincing to the uninformed. The ancient art of herbalism, and the relatively new use of megavitamin treatments, have become commercialized. Glossy brochures tout their marvelous properties. Certainly inflated claims have been put forth in some advertisements and brochures, particularly in appealing to our senior citizens, encouraging patients to believe they could do without their prescribed medications, with unfortunate consequences. A few schlock companies sell substandard products at inflated prices, with no impartial evaluation or control. Even then, should it be the task of government, through whatever agency however protective and benign, to make the public's health decisions for them?

In any case, the FDA is hardly benign. It has been known to invade doctor's offices in full battle regalia, knocking down the door even when the office was open for business, pulling out phones and removing files at gunpoint. That is what happened two years ago to Jonathon Wright, a Seattle M.D. who used vitamin shots to treat allergies in his patients. In 1990, armed federal agents raided the home and business of Ken Scott, owner of Highland Laboratories in Mount Angel, Oregon, because Scott had distributed reprints of magazine articles informing his customers of the value of newly discovered health aids like enzyme Q-10. Over a dozen stores in the Midwest were raided not long ago for displaying boxes of teas which mentioned "vitality" or a body part ("ColonCleanse") on the label.

"The Arbiter of Truth"

One could imagine a protective agency guarding the public health by monitoring the quality of foods and medicines. But today's Food and Drug Administration is not it. Contrary to the tenor of the Food, Drug and Cosmetic Act which charged it with "protecting the health of the nation against impure and unsafe food, drugs and cosmetics," the FDA has become a crude agency of enforcement, with little or no respect for the intelligence of the citizenry. Said FDA Commissioner David Kessler: "The American public does not have the knowledge to make wise health care decisions . . . FDA is the arbiter of truth." (quoted in *Stop the FDA*, eds. John Margenthaler and Steven Fowkes, p. 83)

This "arbiter of truth" has spread misleading information about the dangers of natural medicines. The truth is, herbs and vitamins are virtually harmless. Herbal formulas have been used worldwide for thousands of years. No one has died from an overdose of Vitamin C or checked into a rehabilitation center for abuse of B-6 or A. The Poison Control Center reports no deaths from any of these substances. On the other hand, many approved pharmaceuticals have been the cause of death (by overdose), insanity (Halcion), or serious addiction (Vicodin is the latest example.)

The fact is, the FDA knows little about the appropriate use of herbs and supplements, and reacts more or less hysterically in the rare instances where they fail. When two people died after using the Native American plant chaparral, the FDA took it off the shelves. "Twenty-five hundred people had used it that year." said herbalist Rosemary Gladstar in a talk at Copperfield's book-

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store. "If they used the same standards for aspirin, or just about any other pharmaceutical, there would be nothing left on the shelves!" The very idea of plant medicine seems to summon up dark images of witchcraft or charlatanism, or both, in the minds of the FDA agents. In truth, natural medicine is not a cult. "It's a different paradigm," said Roy Upton, head of the Natural Health Care Alliance, in a phone conversation in 1992.

If the FDA's intention was simply to monitor the quality and use of natural health aids, it could surely do so without making them unavailable. The Herb Research Foundation suggested the creation of a quality control board much like the one that exists for cosmetics; the FDA turned it down. Manufacturers have asked for a new category for herbs and supplements such as exists in European countries, where camomile and gingko are sold in pharmacy shelves as "phytomedicines" (plant medicines). That was rejected too.

The proposed regulation of natural treatments therefore raises serious questions about the role of the FDA in monitoring the medicine market. Does the FDA work for us, or is it working to protect powerful pharmaceutical corporations from undesired competition? Have regulations become so cumbersome that they actually interfere with the responsible development of effective treatments? What about our right to choose appropriate medical treatments according to the dictates of conscience and pocketbook? Is the public so foolish that government must make these choices for them? Then who will protect the people from the protectors?

Herbal teas, pills and elixirs, and many of the top quality vitamins sold in health food stores are produced by independent entrepreneurs. They are examples of the very type of independent enterprise which historically has been the lifeblood of the American economy. Traditional Medicinals, makers of herbal teas, was started on the West Coast by three young people who packaged their formulas in brown paper bags and distributed them to stores in a pick-up truck; it is now a multi-million dollar business. Another reliable herb company, Herb-Pharm, was begun by a man growing herbs in his own garden. The people who started these and other companies were motivated by belief in their products, as well as by the profits which provide for their livelihood.

The regulations proposed by FDA will effectively put many of these companies out of business. The stringent qualifications for drug approval, the cost of testing, and the long period of time involved will be deadly to enterprises which have no other product lines to sustain them. The only companies that will be able to handle the new regulations will be the big pharmaceutical giants who are securely entrenched in the medicine market.

The regulations will also likely favor the medical establishment itself, because some herbs and high-dosage supplements will be available only by prescription, hence requiring a visit to the doctor before purchase. Doctors have not been educated in the use of herbs, they do not tend to believe in their efficacy, and they often discourage reliance on supplements. Whether their attitudes are medically more correct will not be argued here. The point is, the current movement towards self-care will be abrogated in favor of the old model of doctor dependency.

Since supplements and herbs may carry no health claims, manufacturers advertise their proper use in the pages of health magazines and mail order catalogues. Like advertisements everywhere, these can be more alluring than informative. Well-informed clerks in stores try to guide customers to the products that will best suit their needs. But by and large, people who buy herbs and vitamins have come to their own conclusions from reading books and magazine articles about their conditions and seeing natural health practitioners who are licensed to perform chiropractic, acupuncture, and other treatments.

The FDA amendments to NLEA specifically state that informational materials about the uses of vitamins and herbs will become illegal. Books about the uses of natural treatments will not be sold in the

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stores which distribute supplements because these materials constitute claims!

The natural health movement represents an effort by educated people to take charge of their own health. They have become tired of visiting their doctors to get prescriptions for expensive drugs that do not cure their illnesses. Most viruses, for example, do not respond to antibiotics, but some doctors continue to prescribe them. Some patients have discovered that they can beat back colds and flu with echinacea, the purple coneflower that grows abundantly in the United States, or with ginseng and other herbs that stimulate and balance the immune system to do the job it is meant to do. Some have even claimed to benefit from natural herbs and vitamins in the treatment of cancer and AIDS.

It feels good to take care of oneself. Patrons of natural food stores derive satisfaction from exploring their own treatment modalities. Some work, some do not seem to work as well, but independent people value the freedom to make their own choices and learn their own lessons. Why, then, should government intervene?

An article in the June 18, 1992, *New England Journal of Medicine* quotes current FDA Commissioner David Kessler: "If members of our society were empowered to make their own decisions about the entire range of products for which the FDA has responsibility . . . then the whole rationale for the agency would cease to exist." Kessler's remark is clear confirmation that belief in the worth of the individual in our society has been displaced or superseded by belief in the greater worth of the Agency! This is indeed a sorry state of affairs. Agencies are, after all, but formal arrangements of individuals who have less at stake in the choice of medicines than the individual whose life is on the line—and far less accountability.

Although Lippmann was not opposed to government intervention himself, he cautioned that "the domain of authority should be as limited as possible." It may be fitting to end with Lippmann's concluding remarks:

> . . . liberty is one of the conditions of human progress. Without it the dead hand of the past is forever upon the future, and our present ignorance is the enemy of our increasing enlightenment. No one in his senses supposes that the whole of human activity can be free. But it is the prejudice if you like, the proven faith I believe, of free men that *the domain of authority should be as limited as possible*. And so, even when free men enlarge authority, as in the western world they must, they do it in the knowledge that it is expedient and not glorious, that it is necessary but dangerous, that it is useful but costly. However much they may alter their methods, adapting them to new circumstances, *it will continue to be their base conviction that the state is the servant and not the master of people*. (Emphasis mine)

The FDA's threatened coercive manipulation of the market in natural medicine is, I think, symptomatic of a disastrous trend in American government to do for the people what people prefer to do for themselves. In so doing, it threatens to become the master of a weakened and dependent population no longer capable of directing its own fate and eventually subject to the rule of tyranny. Surely that is not what America wants. □

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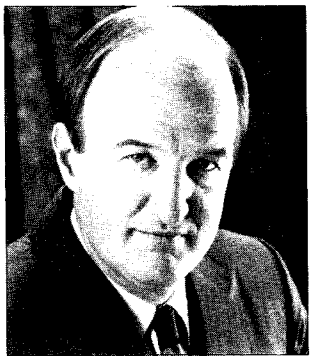

The Free Market Works Fine, Except . . .

> "In health care today, fundamental principles of the marketplace do not apply. Prices are not determined by supply and demand. . ."
>
> —"America's Economic Outlaw: The U.S. Health Care System," *The New York Times* October 26, 1993

I don't know why I keep picking on *The New York Times* for my column. Maybe it's because it reflects the conventional wisdom of today's policy-makers, which is wrong more often than not about the basic principles of economics.

Late last year, as health care became a national issue, *The Times* ran a cover story contending that America's health care system "operates with almost total disregard for basic economic principles" and therefore deserves special treatment by government. "Prices are not determined by supply and demand or by competition among producers. Comparison shopping is impossible. Greater productivity does not lower costs."

But are medical services really that different from soap, cars, or baseball tickets?

Let's go back to Economics 101 to analyze the health care debate. We shall see that, contrary to *The Times*'s statement, supply and demand are working all too well in the health care industry. On the next page is a graph of supply and demand for product x.

This simple graph teaches us three grand principles which, if followed, will easily explain (and resolve) the health care crisis.

Market Principle #1: Supply and Demand

First is the principle of supply and demand. When supply is free to adjust for changes in demand, prices move quickly toward equilibrium without creating shortages or surpluses. As demand increases, prices rise; as supply increases, prices decline.

Why is the cost of health care rising so rapidly? Two reasons: first, increasing demand from Medicare and Medicaid, which today accounts for 65 percent of all medical expenses; second, restrictions by the American Medical Association on the number of students admitted to medical school and limitations on what services nurses and paramedics are permitted to perform.

Market Principle #2: Non-Discrimination

Second is the principle of non-discrimination. Note in the graph that everyone tends to pay the same price for product x. No matter what your income, religious be-

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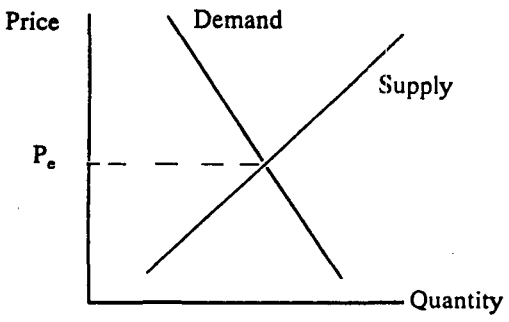

liefs, or color of skin, you pay the same price as everyone else. Republicans and Democrats pay the same amount, P_e, for the same product. So do rich and poor, Christians and atheists, secretaries and engineers. In the free market, as customers compare prices and producers compete, price discrimination is minimized and products are universally available.

Maintaining the principle of non-discrimination in the marketplace is essential. If prices were based on income, there would be little incentive to work harder and earn more income, or for businesses to compete and shoppers to compare prices.

However, this principle is being eroded. Private insurance premiums are still the same for each participant, but an increasing share of medical costs is being borne by taxpayers based on income level. The Medicare tax is now an unlimited tax on income (2.9 percent). The Clinton health plan would make matters worse by making monthly medical insurance premiums a percentage of income, not a fixed amount.

Market Principle #3: Accountability

Third is the principle of accountability. The graph above suggests that you, the customer, pay a specified price, P_e, for each product you buy, or for each unit of service you use. In other words, there is a direct link between beneficiaries and payers. Those who benefit from a service should pay for it. That's a cardinal principle of sound economics. If you buy one loaf of bread, you pay $1. If you buy two loaves, you pay $2.

When people don't pay for the services or products they are using, there is a tendency to overuse the benefits and less incentive to keep costs down. The connection is obvious: If you use a doctor's services, you should pay for them. If you use more, you pay more. And if you use less, you shouldn't have to pay the same amount as someone who uses more.

The principle of accountability is also disintegrating. The link between payers and beneficiaries is breaking down. In more and more cases, Medicare users are not paying the bill, taxpayers are.

Another major source of trouble is the pervasive use of employer-paid medical insurance to pay for even routine doctor visits. When employees know that someone else—the insurance company—is going to foot the bill, there is less incentive to shop around and to limit the number of visits to the doctor or the hospital's emergency room. Fortunately, the insurance companies do attempt to maintain some form of cost control on hospitals and doctor services, but the current system is less than optimal.

Who's to Blame?

The author of the *Times*'s article blames the market for America's health care problems, but the real cause is the government's failure to let the market operate fully. Even employer-paid medical insurance is, in a way, a government creation. High corporate taxes encourage businesses to offer a wide variety of fringe benefits, which are tax-deductible to corporations and tax-free income to employees.

Contrast the health care industry with the dental industry. The dental market does not suffer from the problems facing the medical industry (spiraling costs, bureaucracy, long waits at medical facilities) largely because (1) most dental services are paid for directly by the patient, and (2) the number of dental students is not restricted. These two factors, patient accountability and expanding supply, have worked to keep the price of dental care down. Despite *The Times*'s dire pronouncement, market principles do work.

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How to Resolve the Health Care Problem

What should be done to improve the situation? Imitating national health programs in Canada and Europe won't do because they violate market principles. (If you want to know the weaknesses in each country's health care system, analyze each according to the three market principles.) Analyzed according to these three market principles, Clinton's health care plan won't work either. The cost of medical services would vary according to income, beneficiaries wouldn't pay directly for medical services, and a new federal agency would impose cost controls on drugs and other medically related services. The result would be shortages, bureaucracy, higher costs, reduced services, and less research and development.

The solution to the so-called health care crisis is to get government out of the picture. Private insurance would be able to solve the problem on its own through flexible deductibles and co-payment arrangements. This would encourage competition and comparison shopping to control costs, stimulate further medical advances, and encourage preventive care and exercise. The United States would then be re-assured of her position as the nation with the world's best health care system. □

Religion: Foundation of the Free Society

by Edmund A. Opitz

Introduction by the Right Reverend Robert C. Harvey

Twenty essays eloquently explore the religious roots of American liberty and the free society, the role of the individual in society, and the relationship between religion and the free economy. The economic case for capitalism will not be heard and understood, the Reverend Mr. Opitz contends, until people "have given proper weight to the argument for the free society based on ethics, inherent rights, and free will."

Edmund Opitz, an ordained Congregational minister, founder of The Remnant (a fellowship of conservative and libertarian ministers) and The Nockian Society, is an associate editor of *The Freeman.* He served as a member of the senior staff of FEE from 1955 until his retirement in 1992. *Religion: Foundation of the Free Society* is vintage Opitz, graced with his elegant style, subtle wit, and gentle erudition.

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BOOKS

The Ghost of the Little House: A Life of Rose Wilder Lane

by William Holtz

University of Missouri Press, 1993 • 425 pages • $29.95

Reviewed by Bettina Bien Greaves

Rose Wilder Lane was born on December 5, 1886. She was a fascinating person. For most of her life she eked out a precarious livelihood as a free-lance author, journalist, ghostwriter, and novelist. Yet her impact has been much greater than that of run-of-the-mill free-lance authors, journalists, ghost-writers, and novelists. She became an important figure in the libertarian movement.

Rose was vivacious, lively, energetic, adventurous, a fascinating conversationalist, and a brilliant storyteller. A determined individualist, she was a rebel all her life.

Rose was extremely bright and taught herself to read, she says, at three years of age. She rebelled against poverty and the hardships of her childhood. She also rebelled against uninspiring teachers and her formal schooling ended at an early age. She left home at sixteen and was soon supporting herself on $2.50 per week as a telegrapher. She made her way to California where she worked in real estate and journalism and married briefly.

After World War I, she went to Europe for the Red Cross and to the Middle East for the Near East Relief. She found poverty everywhere; Armenia was the worst. Repulsed by the suffering and destitution in war-torn Europe, Rose was attracted by Communism. But in time she rebelled against that too and became what she called a rebel in the tradition of the American Revolution, an advocate of individual freedom. She described her philosophical transformation in a piece in the *Saturday Evening Post* which later gained wide circulation as a booklet, *Give Me Liberty*.

Rose's mother was Laura Ingalls Wilder, author of the beloved series of Little House books for children. It now appears that Rose had much more to do with the success of those books than has previously been acknowledged. Rose had long encouraged her mother to write, and Laura had had quite a few articles published in local Missouri newspapers and farm journals. Then she began writing down her childhood reminiscences. Laura sent Rose her handwritten manuscript and asked Rose to help. As a skilled ghostwriter, Rose took the story in hand, added descriptive material and conversation, fleshed out incidents described, enhanced the narrative, and gave the tale a suitable beginning and end. After Rose had "run her mother's manuscript through her typewriter" in this way, the first of her mother's Little House books, *The Little House in the Big Woods*, was accepted in 1932 for publication by Harper's and named a Junior Literary Guild Selection.

Laura Ingalls Wilder continued her reminiscences. In time there were eight books in the Little House series.* Laura sometimes resented her daughter's help, but she realized Rose was making her manuscripts publishable. All of the Little House books have become bestsellers and they are still kept in print by their publisher.

It took Rose about a year to "run through her typewriter" each of the books that followed the first one. As Rose worked on her mother's manuscripts, she introduced more and more of her developing philosophy of individual freedom. The extent of Rose's involvement became apparent only after Laura donated "her handwritten, fair-copy manuscripts" of several of the books to libraries (the Detroit Public Library named in her honor and the Pomona, California, Public Library) and scholars began to compare Laura's versions with the published books.

Rose's opposition to government intervention strengthened as the years rolled by. She became a strenuous opponent of Franklin Roosevelt's New Deal. Before

**The First Four Years* was published in 1971, after Rose's death, without benefit of her editing.

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Pearl Harbor she opposed our entry into the war. During the war, she refused to apply for a ration card, relying on honey for sweetening and canning her own garden fruits and vegetables. She even refused to accept a Social Security number. When a radio commentator asked his listeners for their views on Social Security, she scribbled on a postcard: "If [American] school teachers say to German [Nazi] children, 'We believe in Social Security,' the children will ask, 'Then why did you fight Germany?' All these 'Social Security' laws are German, instituted by Bismarck and expanded by Hitler. Americans believe in freedom, in not being taxed for their own good and bossed by bureaucrats." The local postmaster, reading the message, considered it subversive and notified the FBI which sent a state trooper to investigate. Rose's response was a newspaper article: "What Is This—the Gestapo?"

Rose presented her fully developed freedom philosophy in a book, *The Discovery of Freedom*, published during the war in 1943. It has just recently been republished with a new preface by FEE's President, Hans F. Sennholz. Partly because of this book, John Chamberlain credits her, along with Isabel Paterson, author of *The God of the Machine*, and Ayn Rand as having "rekindle[d] a faith in an older American philosophy." This book also inspired Henry Grady Weaver's *Mainspring of Human Progress*, which is a FEE bestseller.

The freedom message Rose presented through her books has even reached people who don't read. Her novel, *Let the Hurricane Roar*, later republished as *Young Pioneers*, which dealt as the Little House books did with life on the frontier, was dramatized for radio and broadcast with Helen Hayes as the star. The Little House books ran for several years as a television series, starring Michael Landon.

Rose was not only a rebel but a crusader. As she journeyed from Communism to freedom, she used every opportunity to convince others of her particular brand of individualism. She was a prolific correspondent. Two books of her letters have been published: one of those to DuPont's Jasper Crane, *The Lady and the Tycoon*, and the other, just published, edited by William Holtz, author of this biography, of Rose's correspondence with Dorothy Thompson, the prominent newspaper columnist. Economists V. Orval Watts, Jean-Pierre Hamilius of Luxembourg, Robert LeFevre, and Hans F. Sennholz all came under her spell. She also gave LeFevre's Freedom School both spiritual and financial support.

In the course of her life, Rose "adopted" several young men who became protégés. One of these, Roger MacBride, became her attorney, heir, and most loyal promoter. Elected to the Vermont State Legislature, MacBride proposed and argued for legislation to reduce the size of the state government by disengaging the state from a host of enterprises. In 1972, as a presidential elector, MacBride surprised the nation by casting his vote, not for the Republican slate as expected, but for the Libertarian presidential and vice-presidential candidates, John Hospers and Toni Nathan. And in 1976, MacBride himself ran for U.S. president as the Libertarian Party's candidate.

Rose Wilder Lane lived a full and colorful life. She thrived on intellectual challenges. She suffered heartbreak and hardships. She traveled widely. In 1965, under the sponsorship of the Defense Department, she was sent as a correspondent for *Woman's Day* to Vietnam. In 1968, she was planning still another trip—to places in Europe she hadn't seen before. On October 29, she baked several loaves of bread in her Danbury, Connecticut, home and went upstairs to bed. As Holtz wrote, "Sometime during the dark hours just before dawn, her heart stopped." Her pilgrimage was over.

William Holtz, Professor of English at the University of Missouri-Columbia, has done a prodigious amount of research, digging through voluminous files, documents, notes, and letters, to produce a sympathetic, delightful biography of a fascinating, dynamic, and complex individual. □

Mrs. Greaves, this month's guest editor, is resident scholar at The Foundation for Economic Education.

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The God of the Machine
by Isabel Paterson
Introduction by Stephen Cox
Transaction Publishers, Rutgers—the State University, New Brunswick, NJ 08903, 1993 • 308+ lvii pages • $21.95 paperback

Reviewed by John Attarian

First published in 1943, when voices raised in defense of freedom were few, *The God of the Machine*, "a study of the flow of energy and the nature of government as mechanism," is both an ambitious and original interpretation of history and a brilliant defense of individual liberty.

For Paterson, "Energy is the medium of life." It cannot be created, but it can be converted into useful forms, by the creative, acting individual. "In the social organization, man is the dynamo, in his productive capacity. . . . He has a faculty for which no equivalent is found in the processes of inanimate nature. He is self-starting, and *he can inhibit himself*" (her italics). Man is "self-starting and self-acting." Paterson's conception resembles the "acting person" at the core of Pope John Paul's endorsement of the free economy.

With individuals as dynamos, economic life is an energy flow; Paterson uses an electrical circuit as a metaphor for the circular flow of production and exchange. For energy to flow, certain institutions are appropriate. "Personal liberty is the precondition of the release of energy. Private property is the inductor which initiates the flow." Paterson contrasts the "Society of Contract" with the "Society of Status." Grounded in awareness of the individual's God-given, inalienable right to life, the former society leaves people free to act, bargain freely, and produce, hence is a prerequisite for prosperity. In the latter, people have no rights, and exist on sufferance, making the Society of Status at odds with reality. "The vital functions of a living creature do not wait on permission; and unless a person is already able to act of his own motion, he cannot obey a command." Hence the Society of Status is "geared to a lower potential of energy than the Society of Contract," resulting in lower economic performance.

Some government is necessary. "Initiative is life itself. Complete inhibition is death. Yet a living creature incapable of inhibiting itself would speedily destroy itself." Limited government, enforcing rights, protecting producers from predators so energy may circulate, acts as the inhibitor—analogous to brakes and governors, which "are set to operate only if the motor and transmission goes wrong. . . .these are not *preventive* controls, but corrective; they are not primary but secondary," e.g., contract laws. Excessive government drains too much energy from the circuit, so not enough gets through to resume the flow, resulting in economic decline; it may even short-circuit the economy altogether.

Three great ideas brought humanity to the Society of Contract: science, law, and Christianity's stress on the individual. They came together in our Constitution, which Paterson interprets brilliantly as a great energy-liberator, albeit flawed by the compromise allowing slavery. But the 14th-18th Amendments disastrously concentrated power in the national government.

Paterson explains money and credit with enviable clarity, and brilliantly explodes the fiat money fallacy. "If it is said that anything will do for money, as long as people accept it, let it be asked, why will not people accept 'anything?' Offer the man who says 'anything will do for money,' a handful of pebbles in payment of a debt." As for inflating bad debt away: "If twenty million bushels of wheat were contracted for, and only ten million bushels existed, there really would not be enough wheat to fulfill the contract; but in that case, nobody would argue that there must be something wrong with wheat as a commodity; much less that the situation could be remedied by calling half a bushel of wheat a bushel. . . . But that is what is done with money in a crisis."

Indeed, one of Paterson's many strengths is her demolition of so much collectivist nonsense: "the greatest good for the great-

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est number," majority rule, "production for use and not for profit" ("as if there could be any profit if the product were not used"), public ownership, "all property is theft" ("Theft presupposes rightful ownership. An object must be property *before* [her italics] it can be stolen."), and so on.

Her chapter "The Humanitarian With the Guillotine" tackles one of the worst fallacies: coercive compassion. While suffering is part of existence, successful life is the norm. "Therefore it cannot be supposed that the producer exists only for the sake of the nonproducer, the well for the sake of the ill, the competent for the sake of the incompetent; nor any person merely for the sake of another." Paterson upholds voluntary charity by religions, which "have always recognized the conditions of the natural order," and calls for meeting the moral obligation of charity "out of the producer's surplus. That is, they make it *secondary to production,"* (her italics) since nothing can be given unless produced. And, recognizing the rights of producers, they obtain money by asking, not commanding.

Humanitarians, however, wish to *command* producers, so as to take credit for production. Moreover:

> If the primary objective of the philanthropist, his justification for living, is to help others, his ultimate good *requires that others shall be in want* [her italics]. His happiness is the obverse of their misery. . . . The humanitarian wishes to be a prime mover in the lives of others. He cannot admit either the divine or the natural order, by which men have the power to help themselves. The humanitarian puts himself in the place of God.

This courageous chapter alone is worth the price of the book. It should be read by everyone, especially welfare statists.

Paterson's electrical metaphors are brilliant, but exasperating in their inadequate articulation. The latter flows from the book's major flaw: deficient organization, a forgivable failing in a pioneering work but well-nigh crippling. Since her metaphors are novel and demanding, she should have opened by presenting and explaining her frame of reference, instead of scattering it throughout the text. As it is, the reader must divine her framework in dribs and drabs by piecemeal epiphanies.

Nonetheless, *The God of the Machine* is magnificent. It deserves and richly repays the careful reading it requires. □

John Attarian is a free-lance writer in Ann Arbor, Michigan, with a Ph.D. in economics.

Russian Currency and Finance: A Currency Board Approach to Reform

by Steve H. Hanke, Lars Jonung, and Kurt Schuler

Routledge, 1993 • 238 pages • $49.95 cloth (also available from Laissez Faire Books at $21.95)

Reviewed by William H. Peterson

Once upon a time—in 1959—I propounded, in both *Challenge* and *National Review*, Peterson's Law on inflation, as follows:

History shows that money will multiply in volume and divide in value over the long run. Or expressed differently, the purchasing power of currency will vary inversely with the magnitude of the public debt.

In the intervening 35 years, depending on the country, inflation has forged ahead relentlessly, sometimes quickly, sometimes slowly but always ahead—a 5,000-year-old story of multiplication of monetary volume and division in currency value. So currencies rot and governments rat on their citizens. That was my message.

Today virtually all currencies are unhealthy, but the sickest by far is the Russian ruble. Notwithstanding considerable financial help from Western governments and the International Monetary Fund, Russia suffers rapid inflation—some 15 percent a month since 1991 and recently 20 percent a month. Further acceleration is expected as the Yeltsin government, pressured by its

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statist parliament, increases lines of credit to its failing state industries.

The authors (Messrs. Hanke and Schuler are with the Johns Hopkins University, Mr. Jonung with the Stockholm School of Economics) worry. At some point, Russian industries will have to fire workers and consumers will have to pay higher real prices for formerly subsidized goods. Political upheaval is in prospect. Write the authors: "It is unclear whether the Russian public will blame the parliament, the executive branch or both for extreme inflation, but whatever the case, the result will be a new configuration of political forces." Question: Is a new Stalin waiting in the wings?

Much depends on Russia's coping realistically with inflation. Inflation is a structural as well as a quantitative problem—too much money chasing too few goods. A price, after all, is but a ratio of money to a particular good. Slow down or stop monetary growth, and you tend to at least slow down or stop the rate of price rise for a broad spectrum of goods.

The question for Russia is: How? Here's where structure comes in. The authors, addressing the Russian authorities, advance a two-pronged program. First, realize that sustainable economic growth underwrites political stability and that such growth is only possible with predictable money, a sound currency that at least reasonably maintains its value from one period to another. Such a ruble would halt Russia's "rush into goods" and "dollarization" of its economy. It would command both domestic and international respect. It would permit saving, investment, foreign trade, and economic growth to go forward.

Then second, with all deliberate speed, convert the Central Bank of Russia into a currency board such as prevails in Hong Kong. A currency board differs from a central bank in key ways. It supplies notes and coins only, while the central bank also supplies bank deposits, especially on behalf of the government. A currency board fixes an exchange rate with a reserve currency such as the U.S. dollar, while a central bank has a pegged or floating exchange rate. A currency board has foreign reserves of 100 percent and full convertibility, while the central bank has variable foreign reserves and limited convertibility.

The point of these and other differences spelled out in the book is that a currency board cannot create inflation while the central bank, usually a creature of a government, often cannot fight off political pressure for inflation. Short-run interests conquer long-run interests, as a painful rule.

And that's probably when the history of currency boards—and dozens are listed in Appendix C in this important volume—shows them to be most helpful but of usually limited duration. The Philippines, for example, had three episodes with currency boards. Besides Hong Kong today, currency board countries include Bermuda, Gibraltar, and Lithuania, though Argentina and Estonia have currency board features. All these countries have relatively low inflation and good growth.

So Hanke, Jonung, and Schuler are unquestionably right and deserve credit. Russian salvation likely lies in sound money and a currency board. The problem is: Do the Russian authorities, for all their large gold deposits, have the vision and courage to adopt them? Peterson's Law, foreboding though it may be, seems to prevail in the end. □

Dr. Peterson, an adjunct scholar with the Heritage Foundation, is completing a book on politics that broadens his original law; it's called Peterson's Law: Why Things Go Wrong.

Angry Classrooms, Vacant Minds

by Martin Morse Wooster

San Francisco: Pacific Research Institute for Public Policy, 1994 • 187 pages • $19.95

Reviewed by John Hood

The education reform debate in the United States has gotten stale. Schools need money, say the teachers' unions and

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the denizens of the education establishment. Schools need flexibility, say trendy reformers. Schools need parental choice, say many conservative and libertarian activists. There appears to be little understanding on the part of one faction as to what is motivating the others. Arguments often seem *pro forma*, with no attempt at a true exchange of views and information.

To combat the school-reform blahs, I would like to prescribe Martin Morse Wooster's *Angry Classrooms, Vacant Minds*, published by the Pacific Research Institute. Wooster's book carries the subtitle *What's Happened to Our High Schools?*, but in reality his analysis extends down to the primary grades, and deals with issues of concern to parents, educators, policymakers, activists, and other interested citizens. Wooster, a former editor at *Harper's*, *The Wilson Quarterly*, and *Reason* who writes regularly on education issues for *The Washington Times*, brings a wealth of experience in journalism and public policy research to the subject of education reform.

One reason why we constantly spin our wheels in reform debates is a lack of attention to history—not the academic subject but the actual record of educational change and controversy in America during the past 150 years. Many of the issues we face today, ranging from national curriculum standards and testing to public aid for private schools, have their antecedents in American history. Perhaps the most welcome parts of Wooster's book attempt to fill in these historical gaps. "Political correctness," for example, is only a new word—it's not a new concept. Assaults on the traditional course of study, motivated by ideology and social sensitivity, date back to the nineteenth century. Progressive education is one movement with a long history—Wooster reports that it was "the dominant educational philosophy in high schools" by the 1930s. "All across America," he explains, "reformers told school boards that 'the total life activity' of the child mattered more than what was taught, and that grading was purely mechanistic and did not reflect what the student really learned."

A key concern of many reformers across the political spectrum today is inculcating values in the educational process. They argue that schools must not only impart information but also build character. But we've tried to accomplish this goal before. The Character Education Institute was created in 1911, and later changed its name to the National Institution for Moral Education. This organization advocated school programs to instill values in schoolchildren, and during the 1920s, public school systems across the country introduced character education plans of various sorts. But studies of these early programs concluded that "the character education movement was at best ineffective and occasionally caused students to become more immoral by cheating on good conduct records."

If the goal is for schools to teach lessons about values, Wooster argues, then they should not get involved in designing an elaborate "moral code" to impart to their students. The school's key responsibility is simply to "make their schools decent and humane places where students can be effective and productive." Another solution, he adds, is to include classic works of literature in the curriculum, from which students can learn moral lessons: "Certainly more students have been improved by great literature than by catch phrases."

The most contentious issue Wooster addresses is school choice. Again, he provides the historical background of the idea—remarking that "the voucher is one of the few innovations in education whose founding can be definitely traced" (to Milton Friedman's original proposal in 1955). Surveying the range of policies encompassed by the term choice, Wooster observes that many experiments conducted so far have had limited scope and mixed results. Whether it is charter schools in California, public school choice in Minnesota and Massachusetts, or vouchers in Wisconsin, the clear predictions of both advocates and opponents have clashed with actual results. Students in these programs transfer from one school to another for varying reasons, some bearing little relationship to academic

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quality. Public school choice, particularly, is a reform that offers only modest potential because of the limited number of choices available. "Public school choice may be helpful in changing the schools," he writes, "but it cannot be a success in a homogeneous, monolithic school system."

Advocates of private education and radical changes in the way public funds are dispersed will find Wooster's conclusion striking: "School choice will not convince parents that education is worthwhile, tell students to do their homework, teach right and wrong, dissolve all red tape, or even ensure that students are as educated as their parents or grandparents. The available evidence suggests that the benefits school choice will provide American schools are more gradual and less dramatic than either friends or foes of the reform contend will take place."

Wooster's analysis of the problems facing American education today, especially when placed in the context of 150 years of "school reform," is both provocative and intriguing. I, for one, would have liked to see some analysis of the *political* dilemma facing school reformers today—particularly the challenge of overcoming the institutional advantages of government monopolists—but perhaps that subject merits its own book. In any event, a reader looking for answers to seemingly intractable problems would do well to begin by reading Wooster's history of school reform. Understanding the past is a precondition for glimpsing the future. □

John Hood is vice president of the John Locke Foundation, a state policy think tank in Raleigh, N.C.

Code Blue: Healthcare in Crisis

by Edward R. Annis, M.D.

Regnery Gateway, 1993 • 278 pages • $21.95

Reviewed by Frank J. Primich, M.D.

Code Blue takes its name from the most common term used by hospital public address systems to signify cardiac arrest. The announcement sends an assortment of specially trained personnel scurrying to the designated site. Modern techniques and technology, when given the timely opportunity, have been highly successful in restoring life.

While *Code Blue* is non-fiction, it certainly can be described as a "whodunit." In fact, the title and cover would be suitable for a Robin Cook medical horror mystery. The protagonist in Dr. Annis's book is the private practice of medicine, which has been declared dead by some of its adversaries. Resuscitation requires an understanding of what has gone wrong, and what can be done about it.

In every field, there is an internal rating system. Ed Annis is the acknowledged superstar of those of us who have pleaded the cause of fee-for-service medical practice and maintenance of the traditional doctor-patient relationship.

The past fifty years have brought miraculous health care advances in life-expectancy and the quality of life. This is often obscured by focusing on misapplied statistics such as infant mortality rates, which reflect harmful lifestyles and socio-economic factors which are beyond the control of the medical community.

The same time span has seen a steady encroachment into the process from a variety of third parties, particularly government. The concept of socialized medicine, discredited elsewhere in the world, has been introduced, through gradualism, to the point where we are now, in effect, semi-socialized. The current proposals for national health care threaten to push us beyond the point of no return.

Code Blue presents a compelling analysis of the chameleon-like nature of the socialistic forces. Each time they are rebuffed, we see the same individuals coming back with the same agenda, wrapped in the banner of their "new" politically correct organization.

Annis ably explains the difference between insurance, which is normally designed to protect against unexpected misfortune, and prepaid health care that

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prevails today. He shows how the added costs associated with third party intervention, while huge in and of themselves, are effectively doubled by the added costs of doing business on the part of the providers of service. The inequity of current standards of malpractice and product liability is exposed for the costs engendered, but more critically for the progress forsaken.

The flaws in the British and Canadian systems are reviewed, and a chapter is devoted to the half-truths of liberal press and media. The largely unjustified doctor-bashing is also addressed. The highlighted cases of fraud and abuse have predictably arisen from the impersonal paper-based nature of third party payment, which offers irresistible opportunities to the unethical.

My favorite portions are the examples of the way things were in the "good old days." Most doctors, under age fifty, have little comprehension of what has been lost.

To anyone unfamiliar with the famous Annis-Kennedy "debate," in May 1962, the intrigue involved and the parallels to the contemporary political maneuvering should be interesting. Under the auspices of the National Council of Senior Citizens, orchestrated by the AFL-CIO, Madison Square Garden was filled with 18,000 elderly supporters of the King-Anderson (Medicare) bill. President John F. Kennedy was scheduled as the principal speaker. His speech was to be carried live and free by all three TV networks.

The AMA asked for equal time, but was refused. They were able to buy time on one network for the following evening. They arranged to rent the Garden immediately following the spectacular presentation, with balloons, banners, and assorted debris still strewn among the now entirely empty seats. Against that background, Ed Annis stood alone and made his impassioned plea. It was estimated that 30,000,000 people, at or near a record for that era, witnessed the speech. The response was phenomenal. The AMA and legislators were deluged with supportive calls and letters. King-Anderson failed to pass! To find out what happened next, you'll have to read the book.

After Dr. Annis has detailed what has gone wrong, he concludes with a chapter that offers the only true logical solution: a return to the free market. Dr. Annis recommends the plans of the National Center for Policy Analysis and the Heritage Foundation. Both plans put the patient back in the driver's seat, demand equity in income tax treatment, and promote Health Savings and Health IRA accounts. The author leans toward the NCPA plan because of its "comprehensive simplicity and logical consistency."

I recall, less than five years ago, sitting at a table in Dallas with Dr. Annis, and Drs. Francis Davis, Frank Rogers, and Jane Orient, while John C. Goodman sought our support for his fledgling NCPA. The prestige that this conservative/libertarian think tank has acquired in such a short time should offer hope to those who worry about the seemingly overwhelming forces arrayed against us.

It may be wishful thinking, but I sincerely believe that if Ed Annis attained access to the talk-show circuit, there is no telling what might happen. He has already proven once that the sincerely spoken word can sway the masses. Given the opportunity, he might once again be our savior. □

Dr. Primich is a private practitioner of obstetrics and gynecology in West New York, New Jersey.

Man and Nature

The Foundation for Economic Education, Irvington-on-Hudson, New York • 1993 • 221 pages • $14.95 paperback

Reviewed by Raymond J. Keating

Environmentalists would have us believe that free individuals interacting in the marketplace destroy the environment. In fact, such radicals view man as intrinsically hostile to the environment. Unfortunately, much of the public, most of the media, and a majority of elected officials in the United States, seem to have accepted this myth as truth.

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Man and Nature provides a valuable antidote to this perverse view of man and his environment. FEE has assembled some of the best essays published in *The Freeman* over the years that addressed environmental issues. And as many of us have come to expect from this monthly journal, these essays present well-reasoned and persuasive arguments from a free-market perspective.

The issue of property rights lies at the very core of most environmental debates. Michael W. Fanning's outstanding essay "Attack in the Adirondacks" documents the destruction of property rights—and a way of life—by New York state government in the Adirondacks. Similarly, Paul D. Kamenar provides a case study of the federal government's flagrant enforcement of the Clean Water Act against an individual in Morrisville, Pennsylvania.

In addition to drawing attention to the dangerous whittling away of individuals' property rights, *Man and Nature* offers numerous examples of how the enforcement of private property rights and reliance on the marketplace can solve current environmental problems. For example, Elizabeth Larson's essay, "Elephants and Ivory," illustrates a means of saving Africa's elephants from extinction. When the Zimbabwe government "transferred the responsibility for elephants from government and wildlife agencies to the farmers and herdsmen on whose land the elephants live, the elephant population in Zimbabwe grew by 5 percent a year, according to Zimbabwe's Department of Wildlife." The critical point is that "[f]armers and herdsmen in Zimbabwe own the elephants roaming their lands." Now, a big-game hunter buys a permit from a nearby village in order to shoot an elephant. Larson notes: "The hunters—by giving the rural Zimbabweans a reason to consider the elephants creatures of value instead of dangerous pests—play a vital role in Zimbabwe's elephant management program."

After reading this book, one gains an appreciation for how the breakdown of English common law regarding property rights—especially during the Progressive Era—translated into environmental woes. Thomas J. DiLorenzo, in his entry "Why Socialism Causes Pollution," tells the reader of two fundamental lessons derived from environmental degradation: "First, it is not free enterprise per se that causes environmental harm; if so, the socialist world would be environmentally pristine." He continues: "The heart of the problem lies with the failure of our legal institutions, not the free enterprise system. . . .The English common law tradition of the protection of private property rights—including the right to be free from pollution —was slowly overturned. In other words, many environmental problems are not caused by 'market failure' but by government's failure to enforce property rights. . . .Potential polluters must know in advance that they will be held responsible for their actions."

DiLorenzo's second lesson, and a fundamental point emphasized throughout this book, "is that the plundering of the environment in the socialist world is a grand example of the tragedy of the commons." That is, where there is no owner, there exists the inclination to abuse or deplete.

Among the many other notable essays are George Reisman's and Robert James Bidinotto's entries. They provide in-depth criticisms of the philosophies that undergird the environmental movement.

In fact, *Man and Nature* tears down the foundations upon which the environmental movement rests. Myths surrounding socialism, overpopulation, animal rights, waste disposal, and much more are obliterated. The notion that government action is the only answer to environmental problems is not only refuted, but supplanted with proof that government action has generated many of these problems. *Man and Nature* illustrates that even in the case of the environment, a free market—with secure property rights—works best for everyone. □

Raymond J. Keating is Director of New York Citizens for a Sound Economy.

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"Don't be so tense, dear. Government's here to help you!"

Satire lives! And this delightfully illustrated book shows it can be challenging at many levels. Enjoy the zany situations the plucky princess gets into, track down the parodies of the modern political scene, or start a government class with the philosophical issues it raises.

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In *Princess Navina Visits Malvolia,* the first book in the series, the princess finds leaders whose ideology stands John Stuart Mill on his head. They have evil intentions, seeking to ensure "the greatest misery for the greatest number." So they have adopted policies to undermine economic incentives, weaken character, and increase social tension. In the modern welfare state, by contrast, politicans have good intentions and have therefore adopted policies to.... Oops!

"Clever book." R. Emmett Tyrrell, Jr., Editor, *The American Spectator.*

Why did political scientist James L. Payne, creator of Princess Navina's adventures, turn to satire? "After studying politicians for so long," he says, "I too have mastered the art of making the illogical seem plausible. Why should this talent go to waste just because I haven't won an election?"

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—LUDWIG VON MISES

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